1719862 - R8 SDMS

ROUTING AND TRANSMITTAL SLIP

Date 11/09/15

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. ~~Amelia Piggott ENF-L~~	AP	11.9.15
2. ~~Sharon Abendschan ENF-RC~~ on AL		
3. ~~Sara Sparks MOO (electronic concurrence)~~	SS	11.9.15
4. Joe Vranka (electronic concurrence) (MOO)	JV	11.12.15
5. ~~Andrea Madigan ENF-L (for signature)~~	AM	11.10.15
6. Kelcey Land ENF-RC (for signature)	KL	11/10/15
7. Martin Hestmark EPR (for signature)	MH	11/12/15
8. return to Amelia Piggott for filing with Regional Hearing Clerk.		
9.		
10.		

☐	Action	☐	File	☐	Note and Return
☐	Approval	☐	For Clearance	☐	Per Conversation
☐	As Requested	☐	For Correction	☐	Prepare Reply
☐	Circulate	☐	For Your Information	☐	See Me
☐	Comment	☐	Investigate	☐	Signature
☐	Coordination	☐	Justify		

REMARKS

AOC for RI/FS at Smurfit Stone Mill Site in Missoula Montana.
Appendix includes pre-approved Work Plan, which incorporates SAP, HASP, QAPP.
Sara will be meeting with the Frenchtown Council on Thursday, and sampling will begin November 16th. Please expedite review and signature.
Deviations from model are minimal; PRPs are paying outstanding response costs. If EPA decides an FS is necessary for any OU, decision is subject to dispute resolution.

→ ~~Appendices will be~~ Appendices will be delivered to EPA by mid-day 11.10.15. once received, they will be added to the package.

SPECIAL
U.S. ENVIRONMENTAL PROTECTION AGENCY
EPA FORM 1320-6 (4-73)

DO NOT use this form as a RECORD of approvals, concurrences, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)
Amelia Piggott ENF-L

Phone No. (303) 312-6410

OPTIONAL FORM 41 (Rev. 1-94)
Prescribed by GSA

Piggott, Amelia

From: Sparks, Sara
Sent: Monday, November 09, 2015 11:45 AM
To: Piggott, Amelia; Vranka, Joe
Subject: RE: Smurfit Electronic Concurrence

I concur. Sara

From: Piggott, Amelia
Sent: Monday, November 09, 2015 8:49 AM
To: Sparks, Sara; Vranka, Joe
Subject: Smurfit Electronic Concurrence

Sara and Joe,

I should be starting to route the Smurfit package here today, as soon as I get the complete package from Betsy Temkin. I'm attaching a copy of the AOC; can you please take a look and concur as soon as possible? I'll include your electronic concurrence in the package. Holler if you have questions.

Thanks,

ap

Amelia Piggott
Attorney
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202
303.312.6410

Piggott, Amelia

From: Vranka, Joe
Sent: Thursday, November 12, 2015 8:56 AM
To: Piggott, Amelia
Cc: Sparks, Sara
Subject: RE: Smurfit Electronic Concurrence

Hi, Amelia:

I have reviewed the AOC and agree with the decision to sign the AOC for Remedial Investigation at the Smurfit-Stone Mill facility. Thank you for all your hard work to get this agreement accomplished!

Joe

Joseph Vranka, P.E.
Superfund Branch Chief
Montana Office, Region 8
U.S. Environmental Protection Agency
10 West 15th Street, Suite 3200
Helena, Montana 59626
(406) 457-5039
vranka.joe@epa.gov

From: Piggott, Amelia
Sent: Monday, November 09, 2015 8:49 AM
To: Sparks, Sara <sparks.sara@epa.gov>; Vranka, Joe <vranka.joe@epa.gov>
Subject: Smurfit Electronic Concurrence

Sara and Joe,

I should be starting to route the Smurfit package here today, as soon as I get the complete package from Betsy Temkin. I'm attaching a copy of the AOC; can you please take a look and concur as soon as possible? I'll include your electronic concurrence in the package. Holler if you have questions.

Thanks,

ap

Amelia Piggott
Attorney
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202
303.312.6410

CONCURRENCE

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF: Smurfit Stone Mill Site Missoula, Missoula County, Montana	ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT FOR REMEDIAL INVESTIGATION/ FEASIBILITY STUDY
International Paper Company WestRock CP, LLC M2Green Redevelopment LLC	U.S. EPA Region 8 CERCLA Docket No. _____
Respondents	Proceeding Under Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9604, 9607 and 9622.

BEPR
11/12/15

SSparks MOD (electronically) 11.9.15

ATP ENF-L 11.10.15

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent (Settlement Agreement) is entered into voluntarily by the United States Environmental Protection Agency (EPA) and the International Paper Company, WestRock CP, LLC, and M2Green LLC (Respondents). This Settlement Agreement concerns the preparation and performance of a remedial investigation (RI) at the Smurfit Stone Mill Site, also known as the Frenchtown Mill, located at 14377 Pulp Mill Road, Missoula, Montana which is approximately 11 miles northwest of the City of Missoula, Montana and approximately 3 miles south of the town of Frenchtown, Montana (Site). This Settlement Agreement also concerns the reimbursement of response costs incurred by EPA in connection with the Site.

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9604, 9607 and 9622 (CERCLA). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (Jan. 29, 1987), and further delegated to Regional Administrators on May 11, 1994, by EPA Delegation Nos. 14-14-C and 14-14-D. This authority was further re-delegated by the Regional Administrator of EPA Region 8 to the director of the Office of Ecosystems Protection and Remediation by delegation 14-14-C and jointly to supervisors in the Legal and Technical Enforcement Programs by delegation 14-14-D.

3. In accordance with Sections 104(b)(2) and 122(j)(1) of CERCLA, 42 U.S.C. §§ 9604(b)(2) and 9622(j)(1), EPA notified the U.S. Department of Interior Natural Resource Trustee, the Montana Natural Resource Damage Program, and Montana Governor Steve Bullock of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under Federal and/or state trusteeship.

4. EPA and Respondents recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Respondents in accordance with this Settlement Agreement do not constitute an admission of any liability. Respondents do not admit any liability to the United States or any third party arising out of any of the conditions related to the Site, nor do they acknowledge that any release or threatened release of hazardous substances has occurred at or from the Site, or that any such claimed release or threatened release constitutes an imminent or substantial endangerment to the public health or welfare or to the environment. Respondents do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of fact, conclusions of law and determinations in Sections V and VI of this Settlement Agreement. Respondents agree to comply with and be bound by the terms of this Settlement Agreement and further agree that they will not contest the basis or validity of this Settlement Agreement or its terms.

II. PARTIES BOUND

5. This Settlement Agreement applies to and is binding upon EPA and upon Respondents and their successors and assigns. Any change in ownership or corporate status of a Respondent including, but not limited to, any transfer of assets or real or personal property shall

not alter such Respondent's responsibilities under this Settlement Agreement, unless otherwise agreed to in writing by EPA.

6. Respondents are jointly and severally liable for carrying out all activities required by this Settlement Agreement. In the event of the insolvency or other failure of any one or more Respondents to implement the requirements of this Settlement Agreement, the remaining Respondents shall complete all such requirements.

7. Respondents shall ensure that their contractors, subcontractors, and representatives receive a copy of this Settlement Agreement and comply with this Settlement Agreement. Respondents shall be responsible for any noncompliance with this Settlement Agreement by their contractors, subcontractors or representatives.

8. Each undersigned representative of Respondents certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to execute and legally bind Respondents to this Settlement Agreement.

III. STATEMENT OF PURPOSE

9. In entering into this Settlement Agreement, the objectives of EPA and Respondents are: (a) to determine the nature and extent of contamination and any threat to the public health, welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants or contaminants at or from the Site, by conducting a Remedial Investigation and (b) to recover response and oversight costs incurred by EPA with respect to this Settlement Agreement, as well as Past Response Costs.

10. The Work conducted under this Settlement Agreement is subject to approval by EPA and shall provide all appropriate and necessary information to assess Site conditions consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300 (NCP). Respondents shall conduct all Work under this Settlement Agreement in compliance with CERCLA, the NCP, and all applicable EPA guidance documents, policies, and procedures.

IV. DEFINITIONS

11. Unless otherwise expressly provided herein, terms used in this Settlement Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

b. "Day" shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

c. "DEQ" shall mean the Montana Department of Environmental Quality and any successor departments or agencies of the State.

d. "Effective Date" shall be the effective date of this Settlement Agreement as provided in Section XXIX.

e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

f. "Engineering Controls" shall mean constructed containment barriers or systems that control one or more of the following: downward migration, infiltration or seepage of surface runoff or rain; or natural leaching migration of contaminants through the subsurface over time. Examples include caps, engineered bottom barriers, immobilization processes, and vertical barriers.

g. "Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Settlement Agreement, verifying the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, Agency for Toxic Substances and Disease Registry ("ATSDR") costs, if any, the costs incurred pursuant to Paragraph 70 (costs and attorneys' fees and any monies paid to secure access, including the amount of just compensation), Paragraph 56 (emergency response), and Paragraph 100 (Work takeover), and all costs, including direct and indirect costs, (a) paid by the United States in connection with the Site between March 31, 2013 and the Effective Date, or (b) incurred prior to the Effective Date, but paid after that date. Future Response Costs shall also include all Interest on those Past Response Costs Respondents have agreed to reimburse under this Settlement Agreement that has accrued pursuant to 42 U.S.C. § 9607(a) during the period from 09/02/2014 to the Effective Date of this Settlement Agreement.

h. "Institutional controls" shall mean non-engineered instruments, such as administrative and/or legal controls, that help to minimize the potential for human exposure to contamination and/or protect the integrity of a remedy by limiting land and/or resource use. Examples of institutional controls include easements and covenants, zoning restrictions, special building permit requirements, and well drilling prohibitions.

i. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

j. "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

k. "Operable Unit 1" or "OU1" shall mean several non-contiguous parcels of agricultural land totaling approximately 1570 acres located along the perimeters of the Site to the north, south, and east. OU1 is depicted in the map attached hereto as Appendix B.

l. "Operable Unit 2" or "OU2" shall mean the former industrial area of the Site, comprising approximately 255 acres. OU2 is depicted in the map attached hereto as Appendix B.

m. "Operable Unit 3" or "OU3" shall mean land formerly used for wastewater treatment and treated wastewater holding and solid waste storage, as well as Site-wide ground water containing or impacted by hazardous substances from Site activities. OU3 also includes locations in the Clark Fork River, where hazardous substances from Site activities have come to be located, if any. It is generally depicted in the map attached hereto as Appendix B.

n. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral.

o. "Parties" shall mean EPA and Respondents.

p. "Past Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States paid at or in connection with the Site through March 31, 2013.

q. "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.*

r. "Respondents" shall mean the WestRock CP, LLC, International Paper Company, and M2Green Redevelopment LLC.

s. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral.

t. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent, all appendices attached hereto (listed in Section XXVII) and all documents incorporated by reference into this document including without limitation EPA-approved submissions. EPA-approved submissions (other than progress reports) are incorporated into and become a part of the Settlement Agreement upon approval by EPA. In the event of conflict between this Settlement Agreement and any appendix or other incorporated documents, this Settlement Agreement shall control.

u. "Site" shall mean the Smurfit Stone Mill Superfund Site, located at 14377 Pulp Mill Road, encompassing approximately 3,200 acres, in Missoula County, Montana, and depicted generally on the map attached as Appendix B.

v. "State" shall mean the State of Montana.

w. "Waste Material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and (4) any "hazardous material" under applicable Montana law.

x. "Work" shall mean all activities Respondents are required to perform under this Settlement Agreement, except those required by Section XIV (Retention of Records).

V. EPA'S FINDINGS OF FACT

12. The Site encompasses approximately 3,200 acres and is located 11 miles northwest of Missoula, and three miles south of Frenchtown, Montana (Appendix B). From approximately 1957 through 2010, various entities operated a pulp and paper mill at the Site. Portions of the Site sit within the 100-year floodplain.

13. The core industrial footprint of the mill facility at the Site covers approximately 100 acres. Over 900 acres of the Site consist of a series of unlined ponds used to store both treated and untreated wastewater effluent from the mill, as well as primary sludge recovered from untreated wastewater. Some ponds initially used to store wastewater were subsequently drained and used for the landfilling of various solid wastes produced at the mill.

14. Much of the remaining acreage of the Site is used for agricultural purposes, including cattle grazing, alfalfa, and grain crop production.

15. In 1956, the Waldorf Paper Products Company, a Minnesota corporation, acquired the Site and began operating a pulp mill.

16. In January of 1957, Missoula County granted the Northern Pacific Railway (NP) an easement for the spur line to cross the Missoula County Highway (Mullen Road).

17. Beginning in February 1957, NP began acquiring a strip of land on the Site to build a short spur line off its mainline (the Spur). NP used the Spur to bring raw materials and chemicals to the Site, and to transfer paper products from the Site. NP went through various mergers and is now BNSF Railway Company (BNSF).

18. The Waldorf Paper Products Company merged with Hoerner Boxes, Inc., an Iowa corporation, in 1966 to create the Hoerner Waldorf Corporation, a Delaware corporation. In 1977, the Hoerner Waldorf Corporation merged with Champion International Corporation (Champion), a New York corporation, with Champion being the surviving entity. The Hoerner Waldorf Corporation and Champion International Corporation continued paper pulping operations at the Site. In 2000, Champion merged with the International Paper Company (International Paper), a New York corporation.

19. In 1971 and 1978, Hoerner Waldorf Corporation and Champion deeded operating portions of the Site to Missoula County. Missoula County leased the portions back to Hoerner Waldorf Corporation and Champion. In 1986, Missoula County deeded all its Site property to Champion.

20. In 1986, Champion transferred the Site to Stone Container Corporation (Stone). Upon the sale, Stone began operations at the mill.

21. In 1987, BNSF and Montana Rail Link, Inc. (MRL), a privately held, Class II Railroad, entered into an agreement that gave MRL rights to use the Spur. Thereafter, MRL used the Spur to transport customer materials to and from the Site.

22. In 1998, Stone Container Corporation merged with Jefferson Smurfit Corporation to create a new entity called Smurfit Stone Container Corporation (Smurfit), a Delaware corporation.

23. In 2009, Smurfit filed for bankruptcy. In 2010, Smurfit ceased operations at the Site.

24. After emerging from bankruptcy, Smurfit conveyed the Site to MLR Investment, LLC, on May 3, 2011. The same day, MLR Investment, LLC, conveyed the Site to M2Green Redevelopment, LLC, an Illinois limited liability company. In May 2011, Smurfit merged into RockTenn CP, LLC. WestRock CP, LLC is the successor to RockTenn CP, LLC.

25. Site activities, including but not limited to the paper pulping process resulted in metals such as arsenic, lead, and manganese being released into surface water, as well as soils at the Site.

26. The use of chlorine for the bleaching of pulp produced chlorinated organic compounds, including dioxins and furans. These substances were released into the surface and groundwater, as well as soils at the Site.

27. Dioxins and furans can accumulate in fish and reach levels that are unsafe for human consumption. Certain laboratory studies document that animals exposed to elevated levels of dioxins and furans may exhibit changes in hormone systems, development of fetuses, and decreased ability to reproduce. Dioxins and furans may also cause immune suppression, chloroachne, and developmental effects in children.

28. The Site was proposed for inclusion on the National Priorities List (NPL) pursuant to CERCLA Section 105, 42 U.S.C. § 9605, on May 24, 2013. It has subsequently been divided into OU1, OU2, and OU3 to facilitate investigation, evaluation and reuse of the Site.

VI. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, EPA has determined that:

29. The Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

30. The contamination found at the Site, as described in the Findings of Fact above, includes "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

31. The conditions described in the Findings of Fact above constitute an actual and/or threatened "release" of a hazardous substance from the facility as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

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

33. Respondents are responsible parties under Sections 104, 107 and 122 of CERCLA, 42 U.S.C. §§ 9604, 9607 and 9622.

34. Respondent M2Green Redevelopment LLC is an "owner" and/or "operator" of the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

35. Respondents International Paper Company and WestRock CP, LLC are successors to entities that were the "owners" and/or "operators" of the facility at the time of disposal of hazardous substances at the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

36. The actions required by this Settlement Agreement are necessary to protect the public health, welfare or the environment, are in the public interest, 42 U.S.C. § 9622(a), are consistent with CERCLA and the NCP, 42 U.S.C. §§ 9604(a)(1), 9622(a), and will expedite effective remedial action and minimize litigation, 42 U.S.C. § 9622(a).

37. EPA has determined that Respondents are qualified to conduct the RI within the meaning of Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), and will carry out the Work properly and promptly, in accordance with Sections 104(a) and 122(a) of CERCLA, 42 U.S.C. §§ 9604(a) and 9622(a), if Respondents comply with the terms of this Settlement Agreement.

VII. SETTLEMENT AGREEMENT

38. Based upon the foregoing Findings of Fact and Conclusions of Law and Determinations, it is hereby Ordered and Agreed that Respondents shall comply with all provisions of this Settlement Agreement, including, but not limited to, all appendices to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement.

VIII. DESIGNATION OF CONTRACTORS AND PROJECT COORDINATORS

39. Selection of Contractors, Personnel. All Work performed under this Settlement Agreement shall be under the direction and supervision of qualified personnel. Within 10 days of the Effective Date of this Order, and before the Work outlined below begins, Respondents shall notify EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants and laboratories to be used in carrying out such Work. With respect to any proposed contractor, Respondents shall demonstrate that the proposed contractor has a quality system which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental

Technology Programs," (American National Standard, January 5, 1995, or most recent version), by submitting a copy of the proposed contractor's Quality Management Plan (QMP). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001 or subsequently issued guidance) or equivalent documentation as determined by EPA. The qualifications of the persons undertaking the Work for Respondents shall be subject to EPA's review, for verification that such persons meet minimum technical background and experience requirements. This Settlement Agreement is contingent on Respondents' demonstration to EPA's satisfaction that Respondents are qualified to perform properly and promptly the actions set forth in this Settlement Agreement. If EPA disapproves in writing of any person's technical qualifications, Respondents shall notify EPA of the identity and qualifications of the replacements within 45 days of the written notice. If EPA subsequently disapproves of the replacement, EPA reserves the right to terminate this Settlement Agreement and to conduct a complete RI/FS, and to seek reimbursement for costs and penalties from Respondents. During the course of the RI, Respondents shall notify EPA in writing of any changes or additions in the personnel used to carry out such Work, providing their names, titles, and qualifications. EPA shall have the same right to disapprove changes and additions to personnel as it has hereunder regarding the initial notification.

40. Within 10 days after the Effective Date, Respondents shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondents required by this Order and shall submit to EPA the designated Project Coordinator's name, address, telephone number and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site Work. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number and qualifications within 14 days following EPA's disapproval. Respondents shall have the right to change their Project Coordinator, subject to EPA's right to disapprove. Respondents shall notify EPA 14 days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notification. Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this Settlement Agreement shall constitute receipt by Respondents.

41. EPA has designated Sara Sparks of the Region 8 Montana Office as its Remedial Project Manager. EPA will notify Respondents of a change of its designated Project Manager. DEQ has designated Keith Large as its State Site Project Officer. DEQ will notify Respondents of a change in its designated State Site Project Officer. Except as otherwise provided in this Settlement Agreement, Respondents shall direct all submissions required by this Settlement Agreement to the Project Manager at U.S. EPA Federal Building 400 N. Main Street Butte, Montana 59701 and by electronic mail to sparks.sara@epa.gov, and copy all submissions to the State Site Project Officer at the Montana Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901 and by electronic mail to klarge@mt.gov.

42. EPA's Project Manager shall have the authority lawfully vested in a Remedial Project Manager (RPM) and On-Scene Coordinator (OSC) by the NCP. In addition, EPA's Project Manager shall have the authority consistent with the NCP, to halt any Work required by this Settlement Agreement, and to take any necessary response action when she determines that conditions at the Site may present an immediate endangerment to public health or welfare or the

environment. The absence of the EPA Project Manager from the area under study pursuant to this Settlement Agreement shall not be cause for the stoppage or delay of Work.

43. EPA shall arrange for a qualified person to assist in its oversight and review of the conduct of the RI, as required by Section 104(a) of CERCLA, 42 U.S.C. Section 9604(a). Such person shall have the authority to observe Work and make inquiries in the absence of EPA, but not to modify the RI Work Plan.

IX. WORK TO BE PERFORMED

44. Respondents shall conduct the RI in accordance with the provisions of this Settlement Agreement, CERCLA, the NCP and applicable or appropriate EPA guidance, including, but not limited to the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (OSWER Directive # 9355.3-01, October 1988 or subsequently issued guidance), "Guidance for Data Useability in Risk Assessment" (OSWER Directive #9285.7-05, October 1990 or subsequently issued guidance), and guidance referenced therein, as may be amended or modified by EPA. The Remedial Investigation (RI) shall consist of collecting data to characterize site conditions, determining the nature and extent of the contamination at or from the Site and assessing risk to human health and the environment. Upon request by EPA, Respondents shall submit in electronic form all portions of any plan, report or other deliverable Respondents are required to submit pursuant to provisions of this Settlement Agreement.

45. RI Work Plan. Respondents previously submitted and EPA has reviewed, provided comments on and approved the Remedial Investigation (RI) Work Plan attached to this Settlement Agreement as Appendix A. The RI Work Plan documents the Site-specific objectives of the RI and a general management approach for the Site, including but not limited to, dividing the Site into three operable units (OUs). The RI Work Plan consists of the following documents:

a. Overview, including a conceptual model for each OU and a schedule for the RI activities and deliverables.

b. Sampling and Analysis Plan. A Sampling and Analysis Plan, consisting of a historical data summary table, Field Sampling Plan (FSP) and a Quality Assurance Project Plan (QAPP), as described in guidances, including, without limitation, "EPA Guidance for Quality Assurance Project Plans (QA/G-5)"(EPA/600/R-02/009, December 2002 or subsequently issued guidance), and "EPA Requirements for Quality Assurance Project Plans (QA/R-5)" (EPA 240/B-01/003, March 2001 or subsequently issued guidance).

c. Site Health and Safety Plan. A Site Health and Safety Plan that ensures the protection of on-site workers and the public during performance of on-site Work under this Settlement Agreement. This plan was prepared in accordance with EPA's Standard Operating Safety Guide (PUB 9285.1-03, PB 92-963414, June 1992 or subsequently issued guidance). In addition, the plan complies with all currently applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 C.F.R. Part 1910.

d. Community Involvement Plan. EPA will prepare a community involvement plan, in accordance with EPA guidance and the NCP. As requested by EPA,

Respondents shall provide information supporting EPA's community involvement plan and shall participate in the preparation of such information for dissemination to the public and in public meetings which may be held or sponsored by EPA to explain activities at or concerning the Site.

e. Site Characterization. Respondents shall implement the provisions of these plans to characterize the Site. Respondents shall complete Site characterization and submit all plans, reports and other deliverables in accordance with the schedules and deadlines established in this Settlement Agreement, and/or the EPA-approved RI Work Plan and Sampling and Analysis Plan.

f. Reuse Assessment. EPA has determined that preparation of a Reuse Assessment is appropriate. Accordingly, Respondents will perform the Reuse Assessment in accordance with the RI Work Plan and applicable guidance. The Reuse Assessment should provide sufficient information to develop realistic assumptions of the reasonably anticipated future uses for the Site. Respondents shall prepare the Reuse Assessment in accordance with EPA guidance, including, but not limited to: "Reuse Assessments: A Tool to Implement the Superfund Land Use Directive," OSWER Directive 9355.7-06P, June 4, 2001 or subsequently issued guidance, in order to potentially support a baseline risk assessment.

g. Draft Remedial Investigation Report. Within 45 days after the completion of the Reuse Assessment, Respondents shall submit to EPA for review and approval pursuant to Section X (EPA Approval of Plans and Other Submissions), a Draft Remedial Investigation Report consistent with the RI Work Plan. The RI Report shall consist of three individual reports, one for each OU.

46. Modification of the RI Work Plan.

a. If at any time during the RI process, Respondents identify a need for additional data, Respondents shall submit a memorandum documenting the need for additional data to the EPA Project Manager within 14 days of identification. EPA in its discretion will determine whether the additional data will be collected by Respondents and whether it will be incorporated into plans, reports and other deliverables.

b. In the event of unanticipated or changed circumstances at the Site, Respondents shall notify the EPA Project Manager by telephone within 24 hours of discovery of the unanticipated or changed circumstances. In the event that EPA determines that the immediate threat or the unanticipated or changed circumstances warrant changes in the RI Work Plan, EPA shall modify or amend the RI Work Plan in writing accordingly. Respondents shall perform the RI Work Plan as modified or amended.

c. EPA may determine that in addition to tasks defined in the initially approved RI Work Plan, other additional Work may be necessary to accomplish the objectives of the RI. Respondents agree to perform these response actions in addition to those required by the initially approved RI Work Plan, including any approved modifications, if EPA determines that such actions are necessary for a complete RI in accordance with CERCLA and the NCP.

d. Respondents shall confirm their willingness to perform the additional RI Work in writing to EPA within 14 days of receipt of the EPA request. If Respondents object to

performing the additional RI Work, Respondents may seek dispute resolution pursuant to Section XV (Dispute Resolution). The RI Work Plan shall be modified in accordance with the final resolution of the dispute.

e. Respondents shall complete the additional Work according to the standards, specifications, and schedule set forth or approved by EPA in a written modification to the RI Work Plan or written RI Work Plan supplement. EPA reserves the right to conduct the Work itself at any point, to seek reimbursement from Respondents, and/or to seek any other appropriate relief.

47. Feasibility Study. After completion of the RI, EPA may determine that a Feasibility Study (FS) is necessary at one or more OUs of the Site due to releases or potential releases of hazardous substances posing a threat to human health or the environment. Within 60 days after written notice from EPA that a FS is necessary at one or more OUs at the Site, Respondents shall submit a work plan for performance of such FS (FS Work Plan). Respondents agree to prepare any FS in accordance with the NCP and the other requirements referenced in this Settlement Agreement, in addition to those actions required by the initially approved RI Work Plan, including any approved modifications, if EPA, in accordance with this Section IX determines that an FS is necessary.

a. Respondents shall confirm their willingness to perform the FS in writing to EPA within 14 days of receipt of the EPA request. If Respondents object to performing the FS, Respondents may seek dispute resolution pursuant to Section XV (Dispute Resolution). The FS Work Plan shall be modified in accordance with the final resolution of the dispute.

b. Respondents shall complete the additional Work according to the standards, specifications, and schedule set forth or approved by EPA in a written modification to the RI Work Plan or written RI Work Plan supplement. EPA reserves the right to conduct the Work itself at any point, to seek reimbursement from Respondents, and/or to seek any other appropriate relief.

c. Any FS shall determine and evaluate (in light of treatability testing, where appropriate) alternatives for remedial action to prevent, mitigate or otherwise respond to or remedy the release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site. The alternatives evaluated must include, at a minimum, the range of alternatives described in the NCP, and shall include remedial actions that utilize permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable. In evaluating the alternatives, Respondents shall address the factors required to be taken into account by Section 121 of CERCLA, 42 U.S.C. § 9621, and Section 300.430(e) of the NCP, 40 C.F.R. § 300.430(e) and relevant guidance.

48. Treatability Studies. Respondents shall conduct treatability studies, except where Respondents can demonstrate to EPA's satisfaction that they are not needed. In accordance with the schedules or deadlines established in this Settlement Agreement and/or the EPA-approved RI Work Plan, Respondents shall provide EPA with the following plans, reports, and other deliverables for review and approval pursuant to Section X (EPA Approval of Plans and Other Submissions):

a. Identification of Candidate Technologies Memorandum. This memorandum shall be submitted as specified by EPA.

b. Treatability Testing Statement of Work. If EPA determines that treatability testing is required, within 45 days thereafter, or as specified by EPA, Respondents shall submit a Treatability Testing Statement of Work (TTSOW).

c. Treatability Testing Work Plan. Within 45 days after submission of the TTSOW, Respondents shall submit a Treatability Testing Work Plan, including a schedule.

d. Treatability Study Sampling and Analysis Plan. Within 45 days after identification of the need for a separate or revised QAPP or FSP, Respondents shall submit a Treatability Study Sampling and Analysis Plan.

e. Treatability Study Site Health and Safety Plan. Within 45 days after the identification of the need for a revised Health and Safety Plan, Respondents shall submit a Treatability Study Site Health and Safety Plan.

f. Treatability Study Evaluation Report. Within 45 days after completion of any treatability testing, Respondents shall submit a treatability study evaluation report as provided in the Statement of Work and Work Plan.

49. Development and Screening of Alternatives. Respondents shall develop an appropriate range of waste management options that will be evaluated through the development and screening of alternatives, as provided in the FS Work Plan. In accordance with the schedules or deadlines established in this Settlement Agreement, and/or the EPA-approved FS Work Plan, Respondents shall provide EPA with the following deliverables for review and approval pursuant to Section X (EPA Approval of Plans and Other Submissions):

a. Memorandum on Remedial Action Objectives and Development and Screening of Alternatives. The Memorandum on Remedial Action Objectives shall include remedial action objectives for Engineering Controls as well as for Institutional Controls. The Memorandum shall also summarize the development and screening of remedial action alternatives. The Memorandum shall also summarize any treatability data collected to support the FS.

b. Detailed Analysis of Alternatives. Respondents shall conduct a detailed analysis of remedial alternatives, as described in the FS Work Plan. In accordance with the deadlines or schedules established in this Settlement Agreement, the SOW and/or the EPA-approved RI or FS Work Plan, Respondents shall provide EPA with the following deliverables and presentation for review and approval pursuant to Section X (EPA Approval of Plans and Other Submissions):

i. Report on Comparative Analysis and Presentation to EPA. Within 45 days after Respondents have completed the detailed analysis of the remedial alternatives for the Site, Respondents will submit a report on comparative analysis to EPA. Within 45 days of submitting the report on comparative analysis, Respondents will present to EPA a summary of

the findings of the remedial investigation and remedial action objectives, and present the results of the nine criteria evaluation and comparative analysis, as described in the SOW.

ii. Alternatives Analysis for Institutional Controls and Screening. Respondents shall submit a memorandum on the Institutional Controls identified in the Memorandum on Development and Screening of Alternatives as potential remedial actions. The Alternatives Analysis for Institutional Controls and Screening shall (1) state the objectives (i.e., what will be accomplished) for the Institutional Controls; (2) determine the specific types of Institutional Controls that can be used to meet the remedial action objectives; (3) investigate when the Institutional Controls need to be implemented and/or secured and how long they must be in place; (4) research, discuss and document any agreement with the proper entities (e.g., state, local government entities, local landowners, conservation organizations, Respondents) on exactly who will be responsible for securing, maintaining and enforcing the Institutional Controls. The Alternatives Analysis for Institutional Controls and Screening shall also evaluate the Institutional Controls identified in the Memorandum on Development and Screening of Alternatives against the nine evaluation criteria outlined in the NCP (40 C.F.R. 300.430(e)(9)(iii)) for CERCLA cleanups, including but not limited to costs to implement, monitor and/or enforce the Institutional Controls. The Alternatives Analysis for Institutional Controls and Screening shall be submitted as an appendix to the Draft Feasibility Study Report.

50. Draft Feasibility Study Report. Within 90 days after the presentation to EPA described in Paragraph 49.b.i., Respondents shall submit to EPA a Draft Feasibility Study Report. Respondents shall refer to Table 6-5 of the RI/FS Guidance for report content and format. The report, as amended, and the administrative record, shall provide the basis for the proposed plan under CERCLA Sections 113(k) and 117(a) by EPA, and shall document the development and analysis of remedial alternatives.

51. Upon receipt of the draft FS report, EPA will evaluate, as necessary, the estimates of the risk to the public and environment that are expected to remain after a particular remedial alternative has been completed and will evaluate the durability, reliability and effectiveness of any proposed Institutional Controls.

52. Nothing in this Section shall be construed to limit EPA's authority to require performance of further response actions at the Site.

53. Off-Site Shipment of Waste Material. Respondents shall, prior to any off-site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to EPA's Designated Project Manager. However, this notification requirement shall not apply to any off-site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

a. Respondents shall include in the written notification the following information: (1) the name and location of the facility to which the Waste Material is to be shipped; (2) the type and quantity of the Waste Material to be shipped; (3) the expected schedule for the shipment of the Waste Material; and (4) the method of transportation. Respondents shall notify the state in which the planned receiving facility is located of major changes in the

shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

b. The identity of the receiving facility and state will be determined by Respondents following the award of the contract for the remedial investigation and feasibility study. Respondents shall provide the information required by Subparagraphs 53.a and 53.c as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

c. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondents shall obtain EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondents shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

54. Meetings. Respondents shall make presentations at, and participate in, meetings at the request of EPA during the initiation, conduct, and completion of the RI. In addition to discussion of the technical aspects of the RI, topics will include anticipated problems or new issues. Meetings will be scheduled at EPA's discretion.

55. Progress Reports. In addition to the plans, reports and other deliverables set forth in this Settlement Agreement, Respondents shall provide to EPA and the State monthly progress reports by the 10th day of each full calendar month following the Effective Date, unless EPA and Respondents agree in writing that another reporting frequency is appropriate based on the pace of the Work. At a minimum, with respect to the preceding month, these progress reports shall (1) describe the actions which have been taken to implement this Settlement Agreement during that month, (2) include all results of sampling and tests and all other data received by Respondents, (3) describe Work planned for the next two months with schedules for such Work and the overall project schedule for RI completion, and (4) describe any problems encountered and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays.

56. Emergency Response and Notification of Releases.

a. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondents shall also immediately notify the EPA Project Manager and the State Site Project Officer or, in the event of the EPA Project Manager's unavailability, the On Scene Coordinator (OSC) or the Regional Duty Officer at the Emergency Response and Preparedness Program, 303.293.1788 of the incident or Site conditions. In the event that Respondents fail to take appropriate response action as required by this Paragraph, and EPA

takes such action instead, Respondents shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XVIII (Payment of Response Costs).

b. In addition, in the event of any release of a hazardous substance from the Site, Respondents shall immediately notify the EPA Project Manager, the State Site Project Officer, the OSC or Regional Duty Officer at 303.293.1788 and the National Response Center at 800.424.8802. Respondents shall submit a written report to EPA within 7 days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

X. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

57. After review of any plan, report or other item that is required to be submitted for approval pursuant to this Settlement Agreement, in a written notice to Respondents EPA shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that Respondents modify the submission; or (e) any combination of the above. However, EPA shall not modify a submission without first providing Respondents at least one notice of deficiency and an opportunity to cure within 7 days, except where to do so would cause serious disruption to the Work or where previous submission(s) have been disapproved due to material defects.

58. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Subparagraph 57(a), (b), (c) or (e), Respondents shall proceed to take any action required by the plan, report or other deliverable, as approved or modified by EPA subject only to their right to invoke the Dispute Resolution procedures set forth in Section XV (Dispute Resolution) with respect to the modifications or conditions made by EPA. Following EPA approval or modification of a submission or portion thereof, Respondents shall not thereafter alter or amend such submission or portion thereof without the agreement of EPA. In the event that EPA modifies the submission to cure the deficiencies pursuant to Subparagraph 57(c) and the submission had a material defect, EPA retains the right to seek stipulated penalties, as provided in Section XVI (Stipulated Penalties).

59. Resubmission.

a. Upon receipt of a written notice of disapproval pursuant to Paragraph 57(d), Respondents shall, within 14 days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other deliverable for approval. Any stipulated penalties applicable to the submission, as provided in Section XVI, shall accrue during the 14 day period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 60 and 61.

b. Notwithstanding the receipt of a written notice of disapproval pursuant to Paragraph 57(d), Respondents shall proceed to take any action required by any non-deficient

portion of the submission, unless otherwise directed by EPA. Implementation of any non-deficient portion of a submission shall not relieve Respondents of any liability for stipulated penalties under Section XVI (Stipulated Penalties).

c. Respondents shall not proceed further with any subsequent activities or tasks until receiving EPA approval, approval on condition or modification of the following deliverables: RI Work Plan (Subparagraph 45), Sampling and Analysis Plan (Subparagraph 45.b), Draft Remedial Investigation Report (Subparagraph 45.g), Treatability Testing Work Plan (Subparagraph 48.c), and Draft Feasibility Study Report (Subparagraph 50). While awaiting EPA approval, approval on condition or modification of these deliverables, Respondents shall proceed with all other tasks and activities which may be conducted independently of these deliverables, in accordance with the schedule set forth under this Settlement Agreement.

d. For all remaining deliverables not listed above in subparagraph 59.c Respondents shall proceed will all subsequent tasks, activities and deliverables without awaiting EPA approval on the submitted deliverable. EPA reserves the right to stop Respondents from proceeding further, either temporarily or permanently, on any task, activity or deliverable at any point during the RI.

60. If EPA disapproves a resubmitted plan, report or other deliverable, or portion thereof, EPA may again direct Respondents to correct the deficiencies. EPA shall also retain the right to modify or develop the plan, report or other deliverable. Respondents shall implement any such plan, report, or deliverable as corrected, modified or developed by EPA, subject only to Respondents' right to invoke the procedures set forth in Section XV (Dispute Resolution).

61. If upon resubmission, a plan, report, or other deliverable is disapproved or modified by EPA due to a material defect, Respondents shall be deemed to have failed to submit such plan, report, or other deliverable timely and adequately unless Respondents invoke the dispute resolution procedures in accordance with Section XV (Dispute Resolution) and EPA's action is revoked or substantially modified pursuant to a Dispute Resolution decision issued by EPA or superseded by an agreement reached pursuant to that Section. The provisions of Section XV (Dispute Resolution) and Section XVI (Stipulated Penalties) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is not otherwise revoked, substantially modified or superseded as a result of a decision or agreement reached pursuant to the Dispute Resolution process set forth in Section XV, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XVI.

62. In the event that EPA takes over some of the tasks, but not the preparation of the RI Report or the FS Report, Respondents shall incorporate and integrate information supplied by EPA into the final reports.

63. All plans, reports, and other deliverables submitted to EPA under this Settlement Agreement shall, upon approval or modification by EPA, be incorporated into and enforceable under this Settlement Agreement. In the event EPA approves or modifies a portion of a plan,

report, or other deliverable submitted to EPA under this Settlement Agreement, the approved or modified portion shall be incorporated into and enforceable under this Settlement Agreement.

64. Neither failure of EPA to expressly approve or disapprove of Respondents' submissions within a specified time period, nor the absence of comments, shall be construed as approval by EPA. Whether or not EPA gives express approval for Respondents' deliverables, Respondents are responsible for preparing deliverables acceptable to EPA.

XI. QUALITY ASSURANCE, SAMPLING, AND ACCESS TO INFORMATION

65. Quality Assurance. Respondents shall assure that Work performed, samples taken and analyses conducted conform to the requirements of the QAPP and guidances identified therein. Respondents will assure that field personnel used by Respondents are properly trained in the use of field equipment and in chain of custody procedures. Respondents shall only use laboratories which have a documented quality system that complies with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA.

66. Sampling.

a. Respondents shall submit results of sampling, tests or modeling, including validated and raw data, generated by or on behalf of Respondents, during the period that this Settlement Agreement is effective, as set forth in Paragraph 55 (Progress Reports). EPA will make available to Respondents validated data generated by EPA unless it is exempt from disclosure by any federal or state law or regulation.

b. Respondents shall verbally notify EPA and the State at least 10 days prior to conducting significant field events as described in the RI Work Plan (Subparagraph 45) or Sampling and Analysis Plan (Subparagraph 45.b). At EPA's verbal or written request, or the request of EPA's oversight assistant, Respondents shall allow split or duplicate samples to be taken by EPA (and its authorized representatives) or the State of any samples collected in implementing this Settlement Agreement. All split samples of Respondents shall be analyzed by the methods identified in the QAPP.

67. Access to Information.

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

b. Respondents may assert business confidentiality claims covering part or all of the documents or information submitted to EPA and the State under this Settlement

Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be business confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of business confidentiality accompanies documents or information when it is submitted to EPA, or if EPA has notified Respondents that the documents or information are not business confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondents. Respondents shall segregate and clearly identify all documents or information submitted under this Settlement Agreement for which Respondents assert business confidentiality claims.

c. Respondents may assert that certain documents, records and other information are privileged under the attorney-client privilege, the attorney work product doctrine or any other privilege or doctrine recognized by federal law. If the Respondents assert such a privilege in lieu of providing documents, they shall provide EPA and the State with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the contents of the document, record, or information; and 6) the privilege asserted by Respondents. However, no documents, reports or other information created or generated as a submittal pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

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

68. In entering into this Settlement Agreement, Respondents waive any objections to any data gathered, generated, or evaluated by EPA, the State or Respondents in the performance or oversight of the Work that has been verified according to the quality assurance/quality control (QA/QC) procedures required by the Settlement Agreement or any EPA-approved RI Work Plans or Sampling and Analysis Plans. If Respondents object to any other data relating to the RI, Respondents shall submit to EPA a report that specifically identifies and explains its objections, describes the acceptable uses of the data, if any, and identifies any limitations to the use of the data. The report must be submitted to EPA within 15 days of the monthly progress report containing the data.

XII. SITE ACCESS AND INSTITUTIONAL CONTROLS

69. If the Site, or any other property where access is needed to implement this Settlement Agreement, is owned or controlled by any of Respondents, such Respondents shall, commencing on the Effective Date, provide EPA, the State, and their representatives, including contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Settlement Agreement. To the extent practicable, EPA and the State shall provide reasonable notice to Respondents prior to accessing any property at the Site owned or controlled by Respondents. EPA and the State shall coordinate with

Respondents to the extent practicable to minimize any disruption to Respondents use or occupation of their property.

70. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain all necessary access agreements within 60 days after the Effective Date, or as otherwise specified in writing by the EPA Project Manager. Respondents shall immediately notify EPA if, after using their best efforts, they are unable to obtain such agreements. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of access. Respondents shall describe in writing their efforts to obtain access. If Respondents cannot obtain access agreements, EPA may modify the work, as appropriate, or either (i) obtain access for Respondents or assist Respondents in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as EPA deems appropriate; (ii) perform those tasks or activities with EPA contractors; or (iii) terminate the obligation under the Settlement Agreement that requires the access agreement in question. Respondents shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XVIII (Payment of Response Costs). If EPA performs those tasks or activities with EPA contractors and does not terminate the Settlement Agreement, Respondents shall perform all other tasks or activities not requiring access to that property, and shall reimburse EPA for all costs incurred in performing such tasks or activities. Respondents shall integrate the results of any such tasks or activities undertaken by EPA into its plans, reports and other deliverables.

71. Notwithstanding any provision of this Settlement Agreement, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XIII. COMPLIANCE WITH OTHER LAWS

72. Respondents shall comply with all applicable local, state and federal laws and regulations when performing the RI/FS. No local, state, or federal permit shall be required for any portion of any action conducted entirely on-Site, including studies, if the action is selected and carried out in compliance with Section 121 of CERCLA, 42 U.S.C. § 9621. Where any portion of the Work is to be conducted off-Site and requires a federal or state permit or approval, Respondents shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals. This Settlement Agreement is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

XIV. RETENTION OF RECORDS

73. During the pendency of this Settlement Agreement and for a minimum of 10 years after completion of the RI, each Respondent shall preserve and retain all non-identical copies of documents, records, and other information (including documents, records, or other information in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy

to the contrary. Until 10 years after commencement of construction of any remedial action, Respondents shall also instruct their contractors and agents to preserve all documents, records, and other information of whatever kind, nature or description relating to performance of the Work.

74. At the conclusion of this document retention period, Respondents shall notify EPA at least 90 days prior to the destruction of any such documents, records or other information, and, upon request by EPA, Respondents shall deliver any such documents, records, or other information to EPA. Respondents may assert that certain documents, records, and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondents assert such a privilege, they shall provide EPA with the following: 1) the title of the document, record, or other information; 2) the date of the document, record, or other information; 3) the name and title of the author of the document, record, or other information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or other information; and 6) the privilege asserted by Respondents. However, no documents, records or other information created or generated as a submittal pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

75. Each Respondent hereby certifies individually that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by EPA or the filing of suit against it regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XV. DISPUTE RESOLUTION

76. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Settlement Agreement. The Parties shall attempt to resolve any disagreements concerning this Settlement Agreement expeditiously and informally.

77. If Respondents object to any EPA action taken pursuant to this Settlement Agreement, including billings for Future Response Costs, they shall notify EPA in writing of their objection(s) within 10 days of such action, unless the objection(s) has/have been resolved informally. EPA and Respondents shall have 45 days from EPA's receipt of Respondents' written objection(s) to resolve the dispute (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA. Such extension may be granted verbally but must be confirmed in writing.

78. Any agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by the Parties, be incorporated into and become an enforceable part of this Settlement Agreement. If the Parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the Assistant Regional Administrator level or higher will issue a written decision. To the extent practicable, Respondents shall be provided

an opportunity to meet with the dispute resolution decision maker and submit additional written comments in support of their objection(s) prior to any decision regarding the dispute. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Respondents' obligations under this Settlement Agreement shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondents shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs, and regardless of whether Respondents agree with the decision.

XVI. STIPULATED PENALTIES

79. Respondents shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 80 and 81 for failure to comply with any of the requirements of this Settlement Agreement specified below unless excused under Section XVII (Force Majeure). "Compliance" by Respondents shall include completion of the Work under this Settlement Agreement or any activities contemplated under any RI Work Plan (Subparagraph 45) or other plan approved under this Settlement Agreement identified below, in accordance with all applicable requirements of law, this Settlement Agreement, and any plans or other documents approved by EPA pursuant to this Settlement Agreement and within the specified time schedules established by and approved under this Settlement Agreement.

80. Stipulated Penalty Amounts - Work.

a. The following stipulated penalties shall accrue per day for failure to comply with any compliance milestones identified in Subparagraph 80(b):

Penalty Per Violation Per Day	Period of Noncompliance
$ 1,500	1st through 14th day
$ 5,000	15th through 30th day
$10,000	31st day and beyond

b. Compliance Milestones

i. Completion of all activities required under Section IX of this Settlement Agreement, except reporting, in accordance with the schedules and deadlines set forth in this Settlement Agreement.

ii. Timely and adequate submittal of the RI Work Plan (Subparagraph 45), Draft RI Report, Draft FS Report, and any required modification to such report, in accordance with this Settlement Agreement.

iii. Payment of Past Response Costs within 60 days after the Effective Date pursuant to Paragraph 93.

iv. Payment of Future Response Costs within 45 days after receipt of a bill from EPA, pursuant to Paragraph 94.

v. Timely and adequate establishment of an escrow account for any dispute under Section XV of this Settlement Agreement.

vi. Timely and adequate establishment of Financial Assurance, pursuant to Section XXVI of this Settlement Agreement.

81. Stipulated Penalty Amounts - Reports. The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate reports, and all other deliverables, other than those specifically cited in Paragraphs 80.b.i through 80.b.vi, above, in accordance with this Settlement Agreement:

Penalty Per Violation Per Day	Period of Noncompliance
$ 500	1st through 14th day
$1,000	15th through 30th day
$3,000	31st day and beyond

82. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 100 of Section XX (Reservation of Rights by EPA), Respondents shall be liable for a stipulated penalty in the amount of $250,000.

83. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (1) with respect to a deficient submission under Section X (EPA Approval of Plans and Other Submissions), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondents of any deficiency; and (2) with respect to a decision by the EPA Management Official designated in Paragraph 78 of Section XV (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA Management Official issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

84. Following EPA's determination that Respondents have failed to comply with a requirement of this Settlement Agreement, EPA may give Respondents written notification of the same and describe the noncompliance. EPA may send Respondents a written demand for the payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondents of a violation.

85. All penalties accruing under this Section shall be due and payable to EPA within 45 days of Respondents' receipt from EPA of a demand for payment of the penalties, unless Respondents invoke the dispute resolution procedures in accordance with Section XV (Dispute Resolution). All payments to EPA under this Section shall be paid by certified or cashier's check(s) made payable to "EPA Hazardous Substances Superfund," shall be mailed to:

U.S. Bank
Government Lockbox 979076
1005 Convention Plaza
SL-MO-C2-GL

St. Louis, MO 63101

Such payment shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID Number A8-04, the EPA Docket Number, and the name and address of the party(ies) making payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s) shall be sent to EPA as provided in Paragraph 41, and to:

U.S. EPA-Region 8
Joe Poetter, Financial Management Officer,
1595 Wynkoop Street
Denver, CO 80202

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

87. Penalties shall continue to accrue as provided in Paragraph 83 during any dispute resolution period, but need not be paid until 15 days after the dispute is resolved by agreement or by receipt of EPA's decision.

88. If Respondents fail to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Respondents shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 85.

89. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(l) of CERCLA, 42 U.S.C. § 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that EPA shall not seek civil penalties pursuant to Section 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided herein, except in the case of willful violation of this Settlement Agreement or in the event that EPA assumes performance of a portion or all of the Work pursuant to Section XX (Reservation of Rights by EPA), Paragraph 100. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

XVII. FORCE MAJEURE

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

91. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Respondents shall notify EPA orally within 1 day of when Respondents first knew that the event might cause a delay. Within 14 days thereafter, Respondents shall provide to EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondents' rationale for attributing such delay to a *force majeure* event if they intend to assert such a claim; and a statement as to whether, in the opinion of Respondents, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the above requirements shall preclude Respondents from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

92. If EPA agrees that the delay or anticipated delay is attributable to *a force majeure* event, the time for performance of the obligations under this Settlement Agreement that are affected by the *force majeure* event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify Respondents in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Respondents in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

XVIII. PAYMENT OF RESPONSE COSTS

93. Payment of Past Response Costs.

a. Within 60 days after the Effective Date, Respondents shall pay to EPA $673,809 for Past Response Costs. Payment shall be made to EPA by Electronics Funds Transfer ("EFT") in accordance with current EFT procedures to:

Federal Reserve Bank of New York
ABA=021030004
Account Number: 68010727

and shall be accompanied by a statement identifying the name and address of the party(ies) making payment, the Site name, the EPA Region and Site/Spill ID Number A8-04, and the EPA docket number for this action.

b. At the time of payment, Respondents shall send notice that payment has been made to:

U.S. EPA-Region 8
Joe Poetter, Financial Management Officer,
1595 Wynkoop Street

Denver, CO 80202

c. The total amount to be paid by Respondents pursuant to Subparagraph 93.a shall be deposited in the Smurfit Stone Mill Site Special Account within the 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 EPA to the EPA Hazardous Substance Superfund.

94. Payments of Future Response Costs.

a. Respondents shall pay EPA all Future Response Costs not inconsistent with the NCP. On a periodic basis, EPA will send Respondents a bill requiring payment that includes a Regionally-prepared cost summary, which includes direct and indirect costs incurred by EPA and its contractors, as well as a DOJ-prepared cost summary, which would reflect costs incurred by DOJ and its contractors, if any. Respondents shall make all payments within 45 days of receipt of each bill requiring payment, except as otherwise provided in Paragraph 95 of this Settlement Agreement. Respondents shall make all payments required by this Paragraph by a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund," referencing the name and address of the parties making payment and EPA Site/Spill ID number A8-04. Respondents shall send the check(s) to:

U.S. Bank
Government Lockbox 979076
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

or by Electronics Funds Transfer ("EFT") in accordance with current EFT procedures, to:

Federal Reserve Bank of New York
ABA=021030004
Account Number: 68010727

b. At the time of payment, Respondents shall send notice that payment has been made to:

U.S. EPA-Region 8
Joe Poetter, Financial Management Officer,
1595 Wynkoop Street
Denver, CO 80202

c. The total amount to be paid by Respondents pursuant to Subparagraph 94.a shall be deposited in the Smurfit Stone Mill Site Special Account within the 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 EPA to the EPA Hazardous Substance Superfund.

95. If Respondents do not pay Past Response Costs within 60 days after the Effective Date, or do not pay Future Response Costs within 45 days of Respondents' receipt of a bill, Respondents shall pay Interest on the unpaid balance of Past Response Costs and Future Response Costs, respectively. The Interest on unpaid Past Response Costs shall begin to accrue on the Effective Date and shall continue to accrue until the date of payment. The interest on Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. If EPA receives a partial payment, Interest shall accrue on any unpaid balance. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondents' failure to make timely payments under this Section, including but not limited to, payments of stipulated penalties pursuant to Section XVI. Respondents shall make all payments required by this Paragraph in the manner described in Paragraph 93.

96. Respondents may contest payment of any Future Response Costs under Paragraph 94 if they determine that EPA has made an accounting error or if they believe EPA incurred excess costs as a direct result of an EPA action that was inconsistent with the NCP. Such objection shall be made in writing within 45 days of receipt of the bill and must be sent to the EPA Project Manager. Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, Respondents shall, within the 45 day period, pay all uncontested Future Response Costs to EPA in the manner described in Paragraph 94. Simultaneously, Respondents shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of Montana and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Respondents shall send to the EPA Project Coordinator a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, Respondents shall initiate the Dispute Resolution procedures in Section XV (Dispute Resolution). If EPA prevails in the dispute, within 5 days of the resolution of the dispute, Respondents shall pay the sums due (with accrued interest) to EPA in the manner described in Paragraph 94. If Respondents prevail concerning any aspect of the contested costs, Respondents shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to EPA in the manner described in Paragraph 94. Respondents shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in XV (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Respondents' obligation to reimburse EPA for its Future Response Costs.

XIX. COVENANT NOT TO SUE BY EPA

97. In consideration of the actions that will be performed and the payments that will be made by Respondents under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take administrative action against Respondents pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work, Past Response Costs and Future Response Costs. This covenant not to sue shall take effect upon receipt by EPA of the Past Response Costs due

under Section XVII of this Settlement Agreement and any Interest or Stipulated Penalties due for failure to pay Past Response Costs as required by Sections XVIII and XVI of this Settlement Agreement. This covenant not to sue is conditioned upon the complete and satisfactory performance by Respondents of their obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XVIII. This covenant not to sue (and all reservations thereto in this Settlement Agreement) shall also apply to Respondent's successors and assigns, but only to the extent that the alleged liability of the successor or assign is based on its status in its capacity as a successor or assign of a Respondent, and not to the extent that the alleged liability arose independently of the of the alleged liability of a Respondent. This covenant not to sue extends only to Respondents and Respondents' successors and assigns, but only to the extent that the alleged liability of the successor or assign is based on its status and in its capacity as a successor or assign of a Respondent, and does not extend to any other person.

XX. RESERVATIONS OF RIGHTS BY EPA

98. Except as specifically provided in this Settlement Agreement, nothing herein shall limit the power and authority of 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 EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

99. The covenant not to sue set forth in Section XIX above does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Respondents with respect to all other matters, including, but not limited to:

a. claims based on a failure by Respondents to meet a requirement of this Settlement Agreement;

b. liability for costs not included within the definitions of Past Response Costs or Future Response Costs;

c. liability for performance of response action other than the Work;

d. criminal liability;

e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and

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

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

XXI. COVENANT NOT TO SUE BY RESPONDENTS

101. Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Past Response Costs, Future Response Costs, or this Settlement Agreement, including, but not limited to:

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

b. any claim arising out of the Work or arising out of the response actions for which Past Response Costs or Future Response Costs have or will be incurred, including any claim under the United States Constitution, the Montana Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Work or payment of Past Response Costs or Future Response Costs.

102. These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 99.b., 99.c., and 99.e. – 99.g., but only to the extent that Respondents' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

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

XXII. OTHER CLAIMS

104. By issuance of this Settlement Agreement, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents.

105. Except as expressly provided in Section XIX (Covenant Not to Sue by EPA), nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Respondents or any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

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

XXIII. CONTRIBUTION

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

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

109. Nothing in this Settlement Agreement precludes the United States or Respondents from asserting any claims, causes of action, or demands for indemnification, contribution, or cost recovery against any person not parties to this Settlement Agreement. Nothing herein diminishes the right of the United States, pursuant to Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2)(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

XXIV. INDEMNIFICATION

110. Respondents shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action arising from, or on account of negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Respondents agree to pay the United States all costs incurred by the United States, including but not limited to attorneys fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, subcontractors and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondents in carrying out activities

pursuant to this Settlement Agreement. Neither Respondents nor any such contractor shall be considered an agent of the United States.

111. The United States shall give Respondents notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondents prior to settling such claim.

112. Respondents waive all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work on or relating to the Site. In addition, Respondents shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work on or relating to the Site.

XXV. INSURANCE

113. At least 14 days prior to commencing any On-Site Work under this Settlement Agreement, Respondents shall secure, and shall maintain for the duration of this Settlement Agreement, comprehensive general liability insurance and automobile insurance with limits of one million dollars, combined single limit, naming the EPA as an additional insured. Within the same period, Respondents shall provide EPA with certificates of such insurance and a copy of each insurance policy. Respondents shall submit such certificates and copies of policies each year on the anniversary of the Effective Date (Section XXIX). In addition, for the duration of the Settlement Agreement, Respondents shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondents in furtherance of this Settlement Agreement. If Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Respondents need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXVI. FINANCIAL ASSURANCE

114. Within 45 days of the Effective Date, Respondents shall establish and maintain financial security for the benefit of EPA in the amount of $1.5 million in one or more of the following forms, in order to secure the full and final completion of Work by Respondents:

a. a surety bond unconditionally guaranteeing payment and/or performance of the Work;

b. one or more irrevocable letters of credit, payable to or at the direction of EPA, issued by financial institution(s) acceptable in all respects to EPA equaling the total estimated cost of the Work;

c. a trust fund administered by a trustee acceptable in all respects to EPA;

d. a policy of insurance issued by an insurance carrier acceptable in all respects to EPA, which ensures the payment and/or performance of the Work;

e. a corporate guarantee to perform the Work provided by one or more parent corporations or subsidiaries of Respondents, or by one or more unrelated corporations that have a substantial business relationship with at least one of Respondents; including a demonstration that any such company satisfies the financial test requirements of 40 C.F.R. Part 264.143(f); and/or

f. a corporate guarantee to perform the Work by one or more of Respondents, including a demonstration that any such Respondent satisfies the requirements of 40 C.F.R. Part 264.143(f).

115. Any and all financial assurance instruments provided pursuant to this Section shall be in form and substance satisfactory to EPA, determined in EPA's sole discretion. In the event that EPA determines at any time that the financial assurances provided pursuant to this Section (including, without limitation, the instrument(s) evidencing such assurances) are inadequate, Respondents shall, within 45 days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph114, above. In addition, if at any time EPA notifies Respondents that the anticipated cost of completing the Work has increased, then, within 45 days of such notification, Respondents shall obtain and present to EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Respondents' inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Settlement Agreement.

116. If Respondents seek to ensure completion of the Work through a guarantee pursuant to Subparagraph 114.e or 114.f of this Settlement Agreement, Respondents shall (i) demonstrate to EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f); and (ii) resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date, to EPA. For the purposes of this Settlement Agreement, wherever 40 C.F.R. Part 264.143(f) references "sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates," the current cost estimate of $1.5 million for the Work at the Site shall be used in relevant financial test calculations.

117. If, after the Effective Date, Respondents can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 114 of this Section, Respondents may, on any anniversary date of the Effective Date (Section XXIX), or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Respondents shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security after receiving written approval from EPA. In the event of a dispute, Respondents may seek dispute resolution pursuant to Section XV (Dispute Resolution). Respondents may reduce the amount of security in accordance with EPA's written decision resolving the dispute.

118. Respondents may change the form of financial assurance provided under this Section at any time, upon notice to and prior written approval by EPA, provided that EPA determines that the new form of assurance meets the requirements of this Section. In the event of a dispute, Respondents may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

XXVII. INTEGRATION/APPENDICES

119. This Settlement Agreement and its appendices and any deliverables, technical memoranda, specifications, schedules, documents, plans, reports (other than progress reports), etc. that will be developed pursuant to this Settlement Agreement and become incorporated into and enforceable under this Settlement Agreement constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement:

"Appendix A" is the Work Plan

"Appendix B" is the map of the Site.

XXVIII. ADMINISTRATIVE RECORD

120. EPA will determine the contents of the administrative record file for selection of the remedial action. Respondents shall submit to EPA documents developed during the course of the RI/FS upon which selection of the response action may be based. Subject to any claim of confidentiality or privilege, and upon request of EPA, Respondents shall provide copies of plans, task memoranda for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports and other reports related to the Work. Upon request of EPA, Respondents shall additionally submit any previous studies in their possession conducted under state, local or other federal authorities relating to selection of the response action, and all communications in their possession between Respondents and state, local or other federal authorities concerning selection of the response action. At EPA's discretion, Respondents shall establish a community information repository at or near the Site, to house one copy of the administrative record.

XXIX. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

121. This Settlement Agreement shall be effective immediately upon signature by all of the Parties.

122. This Settlement Agreement may be amended by mutual agreement of EPA and Respondents. Amendments shall be in writing and shall be effective when signed by EPA. EPA Project Managers do not have the authority to sign amendments to the Settlement Agreement.

123. No informal advice, guidance, suggestion, or comment by the EPA Project Manager or other EPA representatives regarding reports, plans, specifications, schedules, or any

other writing submitted by Respondents shall relieve Respondents of their obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

XXX. NOTICE OF COMPLETION OF WORK

124. When EPA determines that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including but not limited to payment of Future Response Costs (Section XVIII) or record retention (Section XIV), EPA will provide written notice to Respondents. If EPA determines that any such Work has not been completed in accordance with this Settlement Agreement, EPA will notify Respondents, provide a list of the deficiencies, and require that Respondents modify the RI Work Plan if appropriate in order to correct such deficiencies, in accordance with Paragraph 46 (Modification of the Work Plan). Failure by Respondents to implement the approved modified RI Work Plan shall be a violation of this Settlement Agreement.

Agreed this 6th day of October, 2015.

For Respondent WestRock CP, LLC

By: Robert B. Nelson

Title: EVP & General Counsel

Agreed this 6 day of November, 2015.

For Respondent International Paper Company

By: David Un-Kien

Title: Vice President, EHS

Agreed this 6th day of November, 2015.

For Respondent M2Green Redevelopment LLC

By: Raymond S. Stillwell

Title: Manager/Member

It is so AGREED this _____ day of _____, 2_____.

BY:_____ DATE:_____
Martin Hestmark
Director, Office of Ecosystems Protection and Remediation
U.S. Environmental Protection Agency
Region 8

BY: _____ DATE: _____
Andrea Madigan
Supervisory Attorney, Superfund Enforcement Program

U.S. Environmental Protection Agency
Region 8

BY: _____ DATE: _____
Kelcey Land
Director, RCRA & CERCLA Technical Enforcement Program
U.S. Environmental Protection Agency
Region 8

EFFECTIVE DATE: _____

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF: Smurfit Stone Mill Site Missoula, Missoula County, Montana	ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT FOR REMEDIAL INVESTIGATION/ FEASIBILITY STUDY
International Paper Company WestRock CP, LLC M2Green Redevelopment LLC	U.S. EPA Region 8 CERCLA Docket No. _____
Respondents	Proceeding Under Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9604, 9607 and 9622.

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent (Settlement Agreement) is entered into voluntarily by the United States Environmental Protection Agency (EPA) and the International Paper Company, WestRock CP, LLC, and M2Green LLC (Respondents). This Settlement Agreement concerns the preparation and performance of a remedial investigation (RI) at the Smurfit Stone Mill Site, also known as the Frenchtown Mill, located at 14377 Pulp Mill Road, Missoula, Montana which is approximately 11 miles northwest of the City of Missoula, Montana and approximately 3 miles south of the town of Frenchtown, Montana (Site). This Settlement Agreement also concerns the reimbursement of response costs incurred by EPA in connection with the Site.

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9604, 9607 and 9622 (CERCLA). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (Jan. 29, 1987), and further delegated to Regional Administrators on May 11, 1994, by EPA Delegation Nos. 14-14-C and 14-14-D. This authority was further re-delegated by the Regional Administrator of EPA Region 8 to the director of the Office of Ecosystems Protection and Remediation by delegation 14-14-C and jointly to supervisors in the Legal and Technical Enforcement Programs by delegation 14-14-D.

3. In accordance with Sections 104(b)(2) and 122(j)(1) of CERCLA, 42 U.S.C. §§ 9604(b)(2) and 9622(j)(1), EPA notified the U.S. Department of Interior Natural Resource Trustee, the Montana Natural Resource Damage Program, and Montana Governor Steve Bullock of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under Federal and/or state trusteeship.

4. EPA and Respondents recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Respondents in accordance with this Settlement Agreement do not constitute an admission of any liability. Respondents do not admit any liability to the United States or any third party arising out of any of the conditions related to the Site, nor do they acknowledge that any release or threatened release of hazardous substances has occurred at or from the Site, or that any such claimed release or threatened release constitutes an imminent or substantial endangerment to the public health or welfare or to the environment. Respondents do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of fact, conclusions of law and determinations in Sections V and VI of this Settlement Agreement. Respondents agree to comply with and be bound by the terms of this Settlement Agreement and further agree that they will not contest the basis or validity of this Settlement Agreement or its terms.

II. PARTIES BOUND

5. This Settlement Agreement applies to and is binding upon EPA and upon Respondents and their successors and assigns. Any change in ownership or corporate status of a Respondent including, but not limited to, any transfer of assets or real or personal property shall

not alter such Respondent's responsibilities under this Settlement Agreement, unless otherwise agreed to in writing by EPA.

6. Respondents are jointly and severally liable for carrying out all activities required by this Settlement Agreement. In the event of the insolvency or other failure of any one or more Respondents to implement the requirements of this Settlement Agreement, the remaining Respondents shall complete all such requirements.

7. Respondents shall ensure that their contractors, subcontractors, and representatives receive a copy of this Settlement Agreement and comply with this Settlement Agreement. Respondents shall be responsible for any noncompliance with this Settlement Agreement by their contractors, subcontractors or representatives.

8. Each undersigned representative of Respondents certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to execute and legally bind Respondents to this Settlement Agreement.

III. STATEMENT OF PURPOSE

9. In entering into this Settlement Agreement, the objectives of EPA and Respondents are: (a) to determine the nature and extent of contamination and any threat to the public health, welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants or contaminants at or from the Site, by conducting a Remedial Investigation and (b) to recover response and oversight costs incurred by EPA with respect to this Settlement Agreement, as well as Past Response Costs.

10. The Work conducted under this Settlement Agreement is subject to approval by EPA and shall provide all appropriate and necessary information to assess Site conditions consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300 (NCP). Respondents shall conduct all Work under this Settlement Agreement in compliance with CERCLA, the NCP, and all applicable EPA guidance documents, policies, and procedures.

IV. DEFINITIONS

11. Unless otherwise expressly provided herein, terms used in this Settlement Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

b. "Day" shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

c. "DEQ" shall mean the Montana Department of Environmental Quality and any successor departments or agencies of the State.

d. "Effective Date" shall be the effective date of this Settlement Agreement as provided in Section XXIX.

e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

f. "Engineering Controls" shall mean constructed containment barriers or systems that control one or more of the following: downward migration, infiltration or seepage of surface runoff or rain; or natural leaching migration of contaminants through the subsurface over time. Examples include caps, engineered bottom barriers, immobilization processes, and vertical barriers.

g. "Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Settlement Agreement, verifying the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, Agency for Toxic Substances and Disease Registry ("ATSDR") costs, if any, the costs incurred pursuant to Paragraph 70 (costs and attorneys' fees and any monies paid to secure access, including the amount of just compensation), Paragraph 56 (emergency response), and Paragraph 100 (Work takeover), and all costs, including direct and indirect costs, (a) paid by the United States in connection with the Site between March 31, 2013 and the Effective Date, or (b) incurred prior to the Effective Date, but paid after that date. Future Response Costs shall also include all Interest on those Past Response Costs Respondents have agreed to reimburse under this Settlement Agreement that has accrued pursuant to 42 U.S.C. § 9607(a) during the period from 09/02/2014 to the Effective Date of this Settlement Agreement.

h. "Institutional controls" shall mean non-engineered instruments, such as administrative and/or legal controls, that help to minimize the potential for human exposure to contamination and/or protect the integrity of a remedy by limiting land and/or resource use. Examples of institutional controls include easements and covenants, zoning restrictions, special building permit requirements, and well drilling prohibitions.

i. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

j. "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

k. "Operable Unit 1" or "OU1" shall mean several non-contiguous parcels of agricultural land totaling approximately 1570 acres located along the perimeters of the Site to the north, south, and east. OU1 is depicted in the map attached hereto as Appendix B.

l. "Operable Unit 2" or "OU2" shall mean the former industrial area of the Site, comprising approximately 255 acres. OU2 is depicted in the map attached hereto as Appendix B.

m. "Operable Unit 3" or "OU3" shall mean land formerly used for wastewater treatment and treated wastewater holding and solid waste storage, as well as Site-wide ground water containing or impacted by hazardous substances from Site activities. OU3 also includes locations in the Clark Fork River, where hazardous substances from Site activities have come to be located, if any. It is generally depicted in the map attached hereto as Appendix B.

n. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral.

o. "Parties" shall mean EPA and Respondents.

p. "Past Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States paid at or in connection with the Site through March 31, 2013.

q. "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.*

r. "Respondents" shall mean the WestRock CP, LLC, International Paper Company, and M2Green Redevelopment LLC.

s. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral.

t. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent, all appendices attached hereto (listed in Section XXVII) and all documents incorporated by reference into this document including without limitation EPA-approved submissions. EPA-approved submissions (other than progress reports) are incorporated into and become a part of the Settlement Agreement upon approval by EPA. In the event of conflict between this Settlement Agreement and any appendix or other incorporated documents, this Settlement Agreement shall control.

u. "Site" shall mean the Smurfit Stone Mill Superfund Site, located at 14377 Pulp Mill Road, encompassing approximately 3,200 acres, in Missoula County, Montana, and depicted generally on the map attached as Appendix B.

v. "State" shall mean the State of Montana.

w. "Waste Material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and (4) any "hazardous material" under applicable Montana law.

x. "Work" shall mean all activities Respondents are required to perform under this Settlement Agreement, except those required by Section XIV (Retention of Records).

V. EPA'S FINDINGS OF FACT

12. The Site encompasses approximately 3,200 acres and is located 11 miles northwest of Missoula, and three miles south of Frenchtown, Montana (Appendix B). From approximately 1957 through 2010, various entities operated a pulp and paper mill at the Site. Portions of the Site sit within the 100-year floodplain.

13. The core industrial footprint of the mill facility at the Site covers approximately 100 acres. Over 900 acres of the Site consist of a series of unlined ponds used to store both treated and untreated wastewater effluent from the mill, as well as primary sludge recovered from untreated wastewater. Some ponds initially used to store wastewater were subsequently drained and used for the landfilling of various solid wastes produced at the mill.

14. Much of the remaining acreage of the Site is used for agricultural purposes, including cattle grazing, alfalfa, and grain crop production.

15. In 1956, the Waldorf Paper Products Company, a Minnesota corporation, acquired the Site and began operating a pulp mill.

16. In January of 1957, Missoula County granted the Northern Pacific Railway (NP) an easement for the spur line to cross the Missoula County Highway (Mullen Road).

17. Beginning in February 1957, NP began acquiring a strip of land on the Site to build a short spur line off its mainline (the Spur). NP used the Spur to bring raw materials and chemicals to the Site, and to transfer paper products from the Site. NP went through various mergers and is now BNSF Railway Company (BNSF).

18. The Waldorf Paper Products Company merged with Hoerner Boxes, Inc., an Iowa corporation, in 1966 to create the Hoerner Waldorf Corporation, a Delaware corporation. In 1977, the Hoerner Waldorf Corporation merged with Champion International Corporation (Champion), a New York corporation, with Champion being the surviving entity. The Hoerner Waldorf Corporation and Champion International Corporation continued paper pulping operations at the Site. In 2000, Champion merged with the International Paper Company (International Paper), a New York corporation.

19. In 1971 and 1978, Hoerner Waldorf Corporation and Champion deeded operating portions of the Site to Missoula County. Missoula County leased the portions back to Hoerner Waldorf Corporation and Champion. In 1986, Missoula County deeded all its Site property to Champion.

20. In 1986, Champion transferred the Site to Stone Container Corporation (Stone). Upon the sale, Stone began operations at the mill.

21. In 1987, BNSF and Montana Rail Link, Inc. (MRL), a privately held, Class II Railroad, entered into an agreement that gave MRL rights to use the Spur. Thereafter, MRL used the Spur to transport customer materials to and from the Site.

22. In 1998, Stone Container Corporation merged with Jefferson Smurfit Corporation to create a new entity called Smurfit Stone Container Corporation (Smurfit), a Delaware corporation.

23. In 2009, Smurfit filed for bankruptcy. In 2010, Smurfit ceased operations at the Site.

24. After emerging from bankruptcy, Smurfit conveyed the Site to MLR Investment, LLC, on May 3, 2011. The same day, MLR Investment, LLC, conveyed the Site to M2Green Redevelopment, LLC, an Illinois limited liability company. In May 2011, Smurfit merged into RockTenn CP, LLC. WestRock CP, LLC is the successor to RockTenn CP, LLC.

25. Site activities, including but not limited to the paper pulping process resulted in metals such as arsenic, lead, and manganese being released into surface water, as well as soils at the Site.

26. The use of chlorine for the bleaching of pulp produced chlorinated organic compounds, including dioxins and furans. These substances were released into the surface and groundwater, as well as soils at the Site.

27. Dioxins and furans can accumulate in fish and reach levels that are unsafe for human consumption. Certain laboratory studies document that animals exposed to elevated levels of dioxins and furans may exhibit changes in hormone systems, development of fetuses, and decreased ability to reproduce. Dioxins and furans may also cause immune suppression, chloroachne, and developmental effects in children.

28. The Site was proposed for inclusion on the National Priorities List (NPL) pursuant to CERCLA Section 105, 42 U.S.C. § 9605, on May 24, 2013. It has subsequently been divided into OU1, OU2, and OU3 to facilitate investigation, evaluation and reuse of the Site.

VI. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, EPA has determined that:

29. The Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

30. The contamination found at the Site, as described in the Findings of Fact above, includes "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

31. The conditions described in the Findings of Fact above constitute an actual and/or threatened "release" of a hazardous substance from the facility as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

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

33. Respondents are responsible parties under Sections 104, 107 and 122 of CERCLA, 42 U.S.C. §§ 9604, 9607 and 9622.

34. Respondent M2Green Redevelopment LLC is an "owner" and/or "operator" of the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

35. Respondents International Paper Company and WestRock CP, LLC are successors to entities that were the "owners" and/or "operators" of the facility at the time of disposal of hazardous substances at the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

36. The actions required by this Settlement Agreement are necessary to protect the public health, welfare or the environment, are in the public interest, 42 U.S.C. § 9622(a), are consistent with CERCLA and the NCP, 42 U.S.C. §§ 9604(a)(1), 9622(a), and will expedite effective remedial action and minimize litigation, 42 U.S.C. § 9622(a).

37. EPA has determined that Respondents are qualified to conduct the RI within the meaning of Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), and will carry out the Work properly and promptly, in accordance with Sections 104(a) and 122(a) of CERCLA, 42 U.S.C. §§ 9604(a) and 9622(a), if Respondents comply with the terms of this Settlement Agreement.

VII. SETTLEMENT AGREEMENT

38. Based upon the foregoing Findings of Fact and Conclusions of Law and Determinations, it is hereby Ordered and Agreed that Respondents shall comply with all provisions of this Settlement Agreement, including, but not limited to, all appendices to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement.

VIII. DESIGNATION OF CONTRACTORS AND PROJECT COORDINATORS

39. Selection of Contractors, Personnel. All Work performed under this Settlement Agreement shall be under the direction and supervision of qualified personnel. Within 10 days of the Effective Date of this Order, and before the Work outlined below begins, Respondents shall notify EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants and laboratories to be used in carrying out such Work. With respect to any proposed contractor, Respondents shall demonstrate that the proposed contractor has a quality system which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental

Technology Programs," (American National Standard, January 5, 1995, or most recent version), by submitting a copy of the proposed contractor's Quality Management Plan (QMP). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001 or subsequently issued guidance) or equivalent documentation as determined by EPA. The qualifications of the persons undertaking the Work for Respondents shall be subject to EPA's review, for verification that such persons meet minimum technical background and experience requirements. This Settlement Agreement is contingent on Respondents' demonstration to EPA's satisfaction that Respondents are qualified to perform properly and promptly the actions set forth in this Settlement Agreement. If EPA disapproves in writing of any person's technical qualifications, Respondents shall notify EPA of the identity and qualifications of the replacements within 45 days of the written notice. If EPA subsequently disapproves of the replacement, EPA reserves the right to terminate this Settlement Agreement and to conduct a complete RI/FS, and to seek reimbursement for costs and penalties from Respondents. During the course of the RI, Respondents shall notify EPA in writing of any changes or additions in the personnel used to carry out such Work, providing their names, titles, and qualifications. EPA shall have the same right to disapprove changes and additions to personnel as it has hereunder regarding the initial notification.

40. Within 10 days after the Effective Date, Respondents shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondents required by this Order and shall submit to EPA the designated Project Coordinator's name, address, telephone number and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site Work. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number and qualifications within 14 days following EPA's disapproval. Respondents shall have the right to change their Project Coordinator, subject to EPA's right to disapprove. Respondents shall notify EPA 14 days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notification. Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this Settlement Agreement shall constitute receipt by Respondents.

41. EPA has designated Sara Sparks of the Region 8 Montana Office as its Remedial Project Manager. EPA will notify Respondents of a change of its designated Project Manager. DEQ has designated Keith Large as its State Site Project Officer. DEQ will notify Respondents of a change in its designated State Site Project Officer. Except as otherwise provided in this Settlement Agreement, Respondents shall direct all submissions required by this Settlement Agreement to the Project Manager at U.S. EPA Federal Building 400 N. Main Street Butte, Montana 59701 and by electronic mail to sparks.sara@epa.gov, and copy all submissions to the State Site Project Officer at the Montana Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901 and by electronic mail to klarge@mt.gov.

42. EPA's Project Manager shall have the authority lawfully vested in a Remedial Project Manager (RPM) and On-Scene Coordinator (OSC) by the NCP. In addition, EPA's Project Manager shall have the authority consistent with the NCP, to halt any Work required by this Settlement Agreement, and to take any necessary response action when she determines that conditions at the Site may present an immediate endangerment to public health or welfare or the

environment. The absence of the EPA Project Manager from the area under study pursuant to this Settlement Agreement shall not be cause for the stoppage or delay of Work.

43. EPA shall arrange for a qualified person to assist in its oversight and review of the conduct of the RI, as required by Section 104(a) of CERCLA, 42 U.S.C. Section 9604(a). Such person shall have the authority to observe Work and make inquiries in the absence of EPA, but not to modify the RI Work Plan.

IX. WORK TO BE PERFORMED

44. Respondents shall conduct the RI in accordance with the provisions of this Settlement Agreement, CERCLA, the NCP and applicable or appropriate EPA guidance, including, but not limited to the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (OSWER Directive # 9355.3-01, October 1988 or subsequently issued guidance), "Guidance for Data Useability in Risk Assessment" (OSWER Directive #9285.7-05, October 1990 or subsequently issued guidance), and guidance referenced therein, as may be amended or modified by EPA. The Remedial Investigation (RI) shall consist of collecting data to characterize site conditions, determining the nature and extent of the contamination at or from the Site and assessing risk to human health and the environment. Upon request by EPA, Respondents shall submit in electronic form all portions of any plan, report or other deliverable Respondents are required to submit pursuant to provisions of this Settlement Agreement.

45. RI Work Plan. Respondents previously submitted and EPA has reviewed, provided comments on and approved the Remedial Investigation (RI) Work Plan attached to this Settlement Agreement as Appendix A. The RI Work Plan documents the Site-specific objectives of the RI and a general management approach for the Site, including but not limited to, dividing the Site into three operable units (OUs). The RI Work Plan consists of the following documents:

a. Overview, including a conceptual model for each OU and a schedule for the RI activities and deliverables.

b. Sampling and Analysis Plan. A Sampling and Analysis Plan, consisting of a historical data summary table, Field Sampling Plan (FSP) and a Quality Assurance Project Plan (QAPP), as described in guidances, including, without limitation, "EPA Guidance for Quality Assurance Project Plans (QA/G-5)"(EPA/600/R-02/009, December 2002 or subsequently issued guidance), and "EPA Requirements for Quality Assurance Project Plans (QA/R-5)" (EPA 240/B-01/003, March 2001 or subsequently issued guidance).

c. Site Health and Safety Plan. A Site Health and Safety Plan that ensures the protection of on-site workers and the public during performance of on-site Work under this Settlement Agreement. This plan was prepared in accordance with EPA's Standard Operating Safety Guide (PUB 9285.1-03, PB 92-963414, June 1992 or subsequently issued guidance). In addition, the plan complies with all currently applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 C.F.R. Part 1910.

d. Community Involvement Plan. EPA will prepare a community involvement plan, in accordance with EPA guidance and the NCP. As requested by EPA,

Respondents shall provide information supporting EPA's community involvement plan and shall participate in the preparation of such information for dissemination to the public and in public meetings which may be held or sponsored by EPA to explain activities at or concerning the Site.

e. Site Characterization. Respondents shall implement the provisions of these plans to characterize the Site. Respondents shall complete Site characterization and submit all plans, reports and other deliverables in accordance with the schedules and deadlines established in this Settlement Agreement, and/or the EPA-approved RI Work Plan and Sampling and Analysis Plan.

f. Reuse Assessment. EPA has determined that preparation of a Reuse Assessment is appropriate. Accordingly, Respondents will perform the Reuse Assessment in accordance with the RI Work Plan and applicable guidance. The Reuse Assessment should provide sufficient information to develop realistic assumptions of the reasonably anticipated future uses for the Site. Respondents shall prepare the Reuse Assessment in accordance with EPA guidance, including, but not limited to: "Reuse Assessments: A Tool to Implement the Superfund Land Use Directive," OSWER Directive 9355.7-06P, June 4, 2001 or subsequently issued guidance, in order to potentially support a baseline risk assessment.

g. Draft Remedial Investigation Report. Within 45 days after the completion of the Reuse Assessment, Respondents shall submit to EPA for review and approval pursuant to Section X (EPA Approval of Plans and Other Submissions), a Draft Remedial Investigation Report consistent with the RI Work Plan. The RI Report shall consist of three individual reports, one for each OU.

46. Modification of the RI Work Plan.

a. If at any time during the RI process, Respondents identify a need for additional data, Respondents shall submit a memorandum documenting the need for additional data to the EPA Project Manager within 14 days of identification. EPA in its discretion will determine whether the additional data will be collected by Respondents and whether it will be incorporated into plans, reports and other deliverables.

b. In the event of unanticipated or changed circumstances at the Site, Respondents shall notify the EPA Project Manager by telephone within 24 hours of discovery of the unanticipated or changed circumstances. In the event that EPA determines that the immediate threat or the unanticipated or changed circumstances warrant changes in the RI Work Plan, EPA shall modify or amend the RI Work Plan in writing accordingly. Respondents shall perform the RI Work Plan as modified or amended.

c. EPA may determine that in addition to tasks defined in the initially approved RI Work Plan, other additional Work may be necessary to accomplish the objectives of the RI. Respondents agree to perform these response actions in addition to those required by the initially approved RI Work Plan, including any approved modifications, if EPA determines that such actions are necessary for a complete RI in accordance with CERCLA and the NCP.

d. Respondents shall confirm their willingness to perform the additional RI Work in writing to EPA within 14 days of receipt of the EPA request. If Respondents object to

performing the additional RI Work, Respondents may seek dispute resolution pursuant to Section XV (Dispute Resolution). The RI Work Plan shall be modified in accordance with the final resolution of the dispute.

e. Respondents shall complete the additional Work according to the standards, specifications, and schedule set forth or approved by EPA in a written modification to the RI Work Plan or written RI Work Plan supplement. EPA reserves the right to conduct the Work itself at any point, to seek reimbursement from Respondents, and/or to seek any other appropriate relief.

47. Feasibility Study. After completion of the RI, EPA may determine that a Feasibility Study (FS) is necessary at one or more OUs of the Site due to releases or potential releases of hazardous substances posing a threat to human health or the environment. Within 60 days after written notice from EPA that a FS is necessary at one or more OUs at the Site, Respondents shall submit a work plan for performance of such FS (FS Work Plan). Respondents agree to prepare any FS in accordance with the NCP and the other requirements referenced in this Settlement Agreement, in addition to those actions required by the initially approved RI Work Plan, including any approved modifications, if EPA, in accordance with this Section IX determines that an FS is necessary.

a. Respondents shall confirm their willingness to perform the FS in writing to EPA within 14 days of receipt of the EPA request. If Respondents object to performing the FS, Respondents may seek dispute resolution pursuant to Section XV (Dispute Resolution). The FS Work Plan shall be modified in accordance with the final resolution of the dispute.

b. Respondents shall complete the additional Work according to the standards, specifications, and schedule set forth or approved by EPA in a written modification to the RI Work Plan or written RI Work Plan supplement. EPA reserves the right to conduct the Work itself at any point, to seek reimbursement from Respondents, and/or to seek any other appropriate relief.

c. Any FS shall determine and evaluate (in light of treatability testing, where appropriate) alternatives for remedial action to prevent, mitigate or otherwise respond to or remedy the release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site. The alternatives evaluated must include, at a minimum, the range of alternatives described in the NCP, and shall include remedial actions that utilize permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable. In evaluating the alternatives, Respondents shall address the factors required to be taken into account by Section 121 of CERCLA, 42 U.S.C. § 9621, and Section 300.430(e) of the NCP, 40 C.F.R. § 300.430(e) and relevant guidance.

48. Treatability Studies. Respondents shall conduct treatability studies, except where Respondents can demonstrate to EPA's satisfaction that they are not needed. In accordance with the schedules or deadlines established in this Settlement Agreement and/or the EPA-approved RI Work Plan, Respondents shall provide EPA with the following plans, reports, and other deliverables for review and approval pursuant to Section X (EPA Approval of Plans and Other Submissions):

a. Identification of Candidate Technologies Memorandum. This memorandum shall be submitted as specified by EPA.

b. Treatability Testing Statement of Work. If EPA determines that treatability testing is required, within 45 days thereafter, or as specified by EPA, Respondents shall submit a Treatability Testing Statement of Work (TTSOW).

c. Treatability Testing Work Plan. Within 45 days after submission of the TTSOW, Respondents shall submit a Treatability Testing Work Plan, including a schedule.

d. Treatability Study Sampling and Analysis Plan. Within 45 days after identification of the need for a separate or revised QAPP or FSP, Respondents shall submit a Treatability Study Sampling and Analysis Plan.

e. Treatability Study Site Health and Safety Plan. Within 45 days after the identification of the need for a revised Health and Safety Plan, Respondents shall submit a Treatability Study Site Health and Safety Plan.

f. Treatability Study Evaluation Report. Within 45 days after completion of any treatability testing, Respondents shall submit a treatability study evaluation report as provided in the Statement of Work and Work Plan.

49. Development and Screening of Alternatives. Respondents shall develop an appropriate range of waste management options that will be evaluated through the development and screening of alternatives, as provided in the FS Work Plan. In accordance with the schedules or deadlines established in this Settlement Agreement, and/or the EPA-approved FS Work Plan, Respondents shall provide EPA with the following deliverables for review and approval pursuant to Section X (EPA Approval of Plans and Other Submissions):

a. Memorandum on Remedial Action Objectives and Development and Screening of Alternatives. The Memorandum on Remedial Action Objectives shall include remedial action objectives for Engineering Controls as well as for Institutional Controls. The Memorandum shall also summarize the development and screening of remedial action alternatives. The Memorandum shall also summarize any treatability data collected to support the FS.

b. Detailed Analysis of Alternatives. Respondents shall conduct a detailed analysis of remedial alternatives, as described in the FS Work Plan. In accordance with the deadlines or schedules established in this Settlement Agreement, the SOW and/or the EPA-approved RI or FS Work Plan, Respondents shall provide EPA with the following deliverables and presentation for review and approval pursuant to Section X (EPA Approval of Plans and Other Submissions):

i. Report on Comparative Analysis and Presentation to EPA. Within 45 days after Respondents have completed the detailed analysis of the remedial alternatives for the Site, Respondents will submit a report on comparative analysis to EPA. Within 45 days of submitting the report on comparative analysis, Respondents will present to EPA a summary of

the findings of the remedial investigation and remedial action objectives, and present the results of the nine criteria evaluation and comparative analysis, as described in the SOW.

ii. Alternatives Analysis for Institutional Controls and Screening. Respondents shall submit a memorandum on the Institutional Controls identified in the Memorandum on Development and Screening of Alternatives as potential remedial actions. The Alternatives Analysis for Institutional Controls and Screening shall (1) state the objectives (i.e., what will be accomplished) for the Institutional Controls; (2) determine the specific types of Institutional Controls that can be used to meet the remedial action objectives; (3) investigate when the Institutional Controls need to be implemented and/or secured and how long they must be in place; (4) research, discuss and document any agreement with the proper entities (e.g., state, local government entities, local landowners, conservation organizations, Respondents) on exactly who will be responsible for securing, maintaining and enforcing the Institutional Controls. The Alternatives Analysis for Institutional Controls and Screening shall also evaluate the Institutional Controls identified in the Memorandum on Development and Screening of Alternatives against the nine evaluation criteria outlined in the NCP (40 C.F.R. 300.430(e)(9)(iii)) for CERCLA cleanups, including but not limited to costs to implement, monitor and/or enforce the Institutional Controls. The Alternatives Analysis for Institutional Controls and Screening shall be submitted as an appendix to the Draft Feasibility Study Report.

50. Draft Feasibility Study Report. Within 90 days after the presentation to EPA described in Paragraph 49.b.i., Respondents shall submit to EPA a Draft Feasibility Study Report. Respondents shall refer to Table 6-5 of the RI/FS Guidance for report content and format. The report, as amended, and the administrative record, shall provide the basis for the proposed plan under CERCLA Sections 113(k) and 117(a) by EPA, and shall document the development and analysis of remedial alternatives.

51. Upon receipt of the draft FS report, EPA will evaluate, as necessary, the estimates of the risk to the public and environment that are expected to remain after a particular remedial alternative has been completed and will evaluate the durability, reliability and effectiveness of any proposed Institutional Controls.

52. Nothing in this Section shall be construed to limit EPA's authority to require performance of further response actions at the Site.

53. Off-Site Shipment of Waste Material. Respondents shall, prior to any off-site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to EPA's Designated Project Manager. However, this notification requirement shall not apply to any off-site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

a. Respondents shall include in the written notification the following information: (1) the name and location of the facility to which the Waste Material is to be shipped; (2) the type and quantity of the Waste Material to be shipped; (3) the expected schedule for the shipment of the Waste Material; and (4) the method of transportation. Respondents shall notify the state in which the planned receiving facility is located of major changes in the

shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

b. The identity of the receiving facility and state will be determined by Respondents following the award of the contract for the remedial investigation and feasibility study. Respondents shall provide the information required by Subparagraphs 53.a and 53.c as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

c. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondents shall obtain EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondents shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

54. Meetings. Respondents shall make presentations at, and participate in, meetings at the request of EPA during the initiation, conduct, and completion of the RI. In addition to discussion of the technical aspects of the RI, topics will include anticipated problems or new issues. Meetings will be scheduled at EPA's discretion.

55. Progress Reports. In addition to the plans, reports and other deliverables set forth in this Settlement Agreement, Respondents shall provide to EPA and the State monthly progress reports by the 10th day of each full calendar month following the Effective Date, unless EPA and Respondents agree in writing that another reporting frequency is appropriate based on the pace of the Work. At a minimum, with respect to the preceding month, these progress reports shall (1) describe the actions which have been taken to implement this Settlement Agreement during that month, (2) include all results of sampling and tests and all other data received by Respondents, (3) describe Work planned for the next two months with schedules for such Work and the overall project schedule for RI completion, and (4) describe any problems encountered and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays.

56. Emergency Response and Notification of Releases.

a. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondents shall also immediately notify the EPA Project Manager and the State Site Project Officer or, in the event of the EPA Project Manager's unavailability, the On Scene Coordinator (OSC) or the Regional Duty Officer at the Emergency Response and Preparedness Program, 303.293.1788 of the incident or Site conditions. In the event that Respondents fail to take appropriate response action as required by this Paragraph, and EPA

takes such action instead, Respondents shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XVIII (Payment of Response Costs).

b. In addition, in the event of any release of a hazardous substance from the Site, Respondents shall immediately notify the EPA Project Manager, the State Site Project Officer, the OSC or Regional Duty Officer at 303.293.1788 and the National Response Center at 800.424.8802. Respondents shall submit a written report to EPA within 7 days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

X. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

57. After review of any plan, report or other item that is required to be submitted for approval pursuant to this Settlement Agreement, in a written notice to Respondents EPA shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that Respondents modify the submission; or (e) any combination of the above. However, EPA shall not modify a submission without first providing Respondents at least one notice of deficiency and an opportunity to cure within 7 days, except where to do so would cause serious disruption to the Work or where previous submission(s) have been disapproved due to material defects.

58. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Subparagraph 57(a), (b), (c) or (e), Respondents shall proceed to take any action required by the plan, report or other deliverable, as approved or modified by EPA subject only to their right to invoke the Dispute Resolution procedures set forth in Section XV (Dispute Resolution) with respect to the modifications or conditions made by EPA. Following EPA approval or modification of a submission or portion thereof, Respondents shall not thereafter alter or amend such submission or portion thereof without the agreement of EPA. In the event that EPA modifies the submission to cure the deficiencies pursuant to Subparagraph 57(c) and the submission had a material defect, EPA retains the right to seek stipulated penalties, as provided in Section XVI (Stipulated Penalties).

59. Resubmission.

a. Upon receipt of a written notice of disapproval pursuant to Paragraph 57(d), Respondents shall, within 14 days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other deliverable for approval. Any stipulated penalties applicable to the submission, as provided in Section XVI, shall accrue during the 14 day period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 60 and 61.

b. Notwithstanding the receipt of a written notice of disapproval pursuant to Paragraph 57(d), Respondents shall proceed to take any action required by any non-deficient

portion of the submission, unless otherwise directed by EPA. Implementation of any non-deficient portion of a submission shall not relieve Respondents of any liability for stipulated penalties under Section XVI (Stipulated Penalties).

c. Respondents shall not proceed further with any subsequent activities or tasks until receiving EPA approval, approval on condition or modification of the following deliverables: RI Work Plan (Subparagraph 45), Sampling and Analysis Plan (Subparagraph 45.b), Draft Remedial Investigation Report (Subparagraph 45.g), Treatability Testing Work Plan (Subparagraph 48.c), and Draft Feasibility Study Report (Subparagraph 50). While awaiting EPA approval, approval on condition or modification of these deliverables, Respondents shall proceed with all other tasks and activities which may be conducted independently of these deliverables, in accordance with the schedule set forth under this Settlement Agreement.

d. For all remaining deliverables not listed above in subparagraph 59.c Respondents shall proceed will all subsequent tasks, activities and deliverables without awaiting EPA approval on the submitted deliverable. EPA reserves the right to stop Respondents from proceeding further, either temporarily or permanently, on any task, activity or deliverable at any point during the RI.

60. If EPA disapproves a resubmitted plan, report or other deliverable, or portion thereof, EPA may again direct Respondents to correct the deficiencies. EPA shall also retain the right to modify or develop the plan, report or other deliverable. Respondents shall implement any such plan, report, or deliverable as corrected, modified or developed by EPA, subject only to Respondents' right to invoke the procedures set forth in Section XV (Dispute Resolution).

61. If upon resubmission, a plan, report, or other deliverable is disapproved or modified by EPA due to a material defect, Respondents shall be deemed to have failed to submit such plan, report, or other deliverable timely and adequately unless Respondents invoke the dispute resolution procedures in accordance with Section XV (Dispute Resolution) and EPA's action is revoked or substantially modified pursuant to a Dispute Resolution decision issued by EPA or superseded by an agreement reached pursuant to that Section. The provisions of Section XV (Dispute Resolution) and Section XVI (Stipulated Penalties) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is not otherwise revoked, substantially modified or superseded as a result of a decision or agreement reached pursuant to the Dispute Resolution process set forth in Section XV, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XVI.

62. In the event that EPA takes over some of the tasks, but not the preparation of the RI Report or the FS Report, Respondents shall incorporate and integrate information supplied by EPA into the final reports.

63. All plans, reports, and other deliverables submitted to EPA under this Settlement Agreement shall, upon approval or modification by EPA, be incorporated into and enforceable under this Settlement Agreement. In the event EPA approves or modifies a portion of a plan,

report, or other deliverable submitted to EPA under this Settlement Agreement, the approved or modified portion shall be incorporated into and enforceable under this Settlement Agreement.

64. Neither failure of EPA to expressly approve or disapprove of Respondents' submissions within a specified time period, nor the absence of comments, shall be construed as approval by EPA. Whether or not EPA gives express approval for Respondents' deliverables, Respondents are responsible for preparing deliverables acceptable to EPA.

XI. QUALITY ASSURANCE, SAMPLING, AND ACCESS TO INFORMATION

65. Quality Assurance. Respondents shall assure that Work performed, samples taken and analyses conducted conform to the requirements of the QAPP and guidances identified therein. Respondents will assure that field personnel used by Respondents are properly trained in the use of field equipment and in chain of custody procedures. Respondents shall only use laboratories which have a documented quality system that complies with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA.

66. Sampling.

a. Respondents shall submit results of sampling, tests or modeling, including validated and raw data, generated by or on behalf of Respondents, during the period that this Settlement Agreement is effective, as set forth in Paragraph 55 (Progress Reports). EPA will make available to Respondents validated data generated by EPA unless it is exempt from disclosure by any federal or state law or regulation.

b. Respondents shall verbally notify EPA and the State at least 10 days prior to conducting significant field events as described in the RI Work Plan (Subparagraph 45) or Sampling and Analysis Plan (Subparagraph 45.b). At EPA's verbal or written request, or the request of EPA's oversight assistant, Respondents shall allow split or duplicate samples to be taken by EPA (and its authorized representatives) or the State of any samples collected in implementing this Settlement Agreement. All split samples of Respondents shall be analyzed by the methods identified in the QAPP.

67. Access to Information.

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

b. Respondents may assert business confidentiality claims covering part or all of the documents or information submitted to EPA and the State under this Settlement

Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be business confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of business confidentiality accompanies documents or information when it is submitted to EPA, or if EPA has notified Respondents that the documents or information are not business confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondents. Respondents shall segregate and clearly identify all documents or information submitted under this Settlement Agreement for which Respondents assert business confidentiality claims.

c. Respondents may assert that certain documents, records and other information are privileged under the attorney-client privilege, the attorney work product doctrine or any other privilege or doctrine recognized by federal law. If the Respondents assert such a privilege in lieu of providing documents, they shall provide EPA and the State with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the contents of the document, record, or information; and 6) the privilege asserted by Respondents. However, no documents, reports or other information created or generated as a submittal pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

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

68. In entering into this Settlement Agreement, Respondents waive any objections to any data gathered, generated, or evaluated by EPA, the State or Respondents in the performance or oversight of the Work that has been verified according to the quality assurance/quality control (QA/QC) procedures required by the Settlement Agreement or any EPA-approved RI Work Plans or Sampling and Analysis Plans. If Respondents object to any other data relating to the RI, Respondents shall submit to EPA a report that specifically identifies and explains its objections, describes the acceptable uses of the data, if any, and identifies any limitations to the use of the data. The report must be submitted to EPA within 15 days of the monthly progress report containing the data.

XII. SITE ACCESS AND INSTITUTIONAL CONTROLS

69. If the Site, or any other property where access is needed to implement this Settlement Agreement, is owned or controlled by any of Respondents, such Respondents shall, commencing on the Effective Date, provide EPA, the State, and their representatives, including contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Settlement Agreement. To the extent practicable, EPA and the State shall provide reasonable notice to Respondents prior to accessing any property at the Site owned or controlled by Respondents. EPA and the State shall coordinate with

Respondents to the extent practicable to minimize any disruption to Respondents use or occupation of their property.

70. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain all necessary access agreements within 60 days after the Effective Date, or as otherwise specified in writing by the EPA Project Manager. Respondents shall immediately notify EPA if, after using their best efforts, they are unable to obtain such agreements. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of access. Respondents shall describe in writing their efforts to obtain access. If Respondents cannot obtain access agreements, EPA may modify the work, as appropriate, or either (i) obtain access for Respondents or assist Respondents in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as EPA deems appropriate; (ii) perform those tasks or activities with EPA contractors; or (iii) terminate the obligation under the Settlement Agreement that requires the access agreement in question. Respondents shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XVIII (Payment of Response Costs). If EPA performs those tasks or activities with EPA contractors and does not terminate the Settlement Agreement, Respondents shall perform all other tasks or activities not requiring access to that property, and shall reimburse EPA for all costs incurred in performing such tasks or activities. Respondents shall integrate the results of any such tasks or activities undertaken by EPA into its plans, reports and other deliverables.

71. Notwithstanding any provision of this Settlement Agreement, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XIII. COMPLIANCE WITH OTHER LAWS

72. Respondents shall comply with all applicable local, state and federal laws and regulations when performing the RI/FS. No local, state, or federal permit shall be required for any portion of any action conducted entirely on-Site, including studies, if the action is selected and carried out in compliance with Section 121 of CERCLA, 42 U.S.C. § 9621. Where any portion of the Work is to be conducted off-Site and requires a federal or state permit or approval, Respondents shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals. This Settlement Agreement is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

XIV. RETENTION OF RECORDS

73. During the pendency of this Settlement Agreement and for a minimum of 10 years after completion of the RI, each Respondent shall preserve and retain all non-identical copies of documents, records, and other information (including documents, records, or other information in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy

to the contrary. Until 10 years after commencement of construction of any remedial action, Respondents shall also instruct their contractors and agents to preserve all documents, records, and other information of whatever kind, nature or description relating to performance of the Work.

74. At the conclusion of this document retention period, Respondents shall notify EPA at least 90 days prior to the destruction of any such documents, records or other information, and, upon request by EPA, Respondents shall deliver any such documents, records, or other information to EPA. Respondents may assert that certain documents, records, and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondents assert such a privilege, they shall provide EPA with the following: 1) the title of the document, record, or other information; 2) the date of the document, record, or other information; 3) the name and title of the author of the document, record, or other information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or other information; and 6) the privilege asserted by Respondents. However, no documents, records or other information created or generated as a submittal pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

75. Each Respondent hereby certifies individually that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by EPA or the filing of suit against it regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XV. DISPUTE RESOLUTION

76. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Settlement Agreement. The Parties shall attempt to resolve any disagreements concerning this Settlement Agreement expeditiously and informally.

77. If Respondents object to any EPA action taken pursuant to this Settlement Agreement, including billings for Future Response Costs, they shall notify EPA in writing of their objection(s) within 10 days of such action, unless the objection(s) has/have been resolved informally. EPA and Respondents shall have 45 days from EPA's receipt of Respondents' written objection(s) to resolve the dispute (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA. Such extension may be granted verbally but must be confirmed in writing.

78. Any agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by the Parties, be incorporated into and become an enforceable part of this Settlement Agreement. If the Parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the Assistant Regional Administrator level or higher will issue a written decision. To the extent practicable, Respondents shall be provided

an opportunity to meet with the dispute resolution decision maker and submit additional written comments in support of their objection(s) prior to any decision regarding the dispute. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Respondents' obligations under this Settlement Agreement shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondents shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs, and regardless of whether Respondents agree with the decision.

XVI. STIPULATED PENALTIES

79. Respondents shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 80 and 81 for failure to comply with any of the requirements of this Settlement Agreement specified below unless excused under Section XVII (Force Majeure). "Compliance" by Respondents shall include completion of the Work under this Settlement Agreement or any activities contemplated under any RI Work Plan (Subparagraph 45) or other plan approved under this Settlement Agreement identified below, in accordance with all applicable requirements of law, this Settlement Agreement, and any plans or other documents approved by EPA pursuant to this Settlement Agreement and within the specified time schedules established by and approved under this Settlement Agreement.

80. Stipulated Penalty Amounts - Work.

a. The following stipulated penalties shall accrue per day for failure to comply with any compliance milestones identified in Subparagraph 80(b):

Penalty Per Violation Per Day	Period of Noncompliance
$ 1,500	1st through 14th day
$ 5,000	15th through 30th day
$10,000	31st day and beyond

b. Compliance Milestones

i. Completion of all activities required under Section IX of this Settlement Agreement, except reporting, in accordance with the schedules and deadlines set forth in this Settlement Agreement.

ii. Timely and adequate submittal of the RI Work Plan (Subparagraph 45), Draft RI Report, Draft FS Report, and any required modification to such report, in accordance with this Settlement Agreement.

iii. Payment of Past Response Costs within 60 days after the Effective Date pursuant to Paragraph 93.

iv. Payment of Future Response Costs within 45 days after receipt of a bill from EPA, pursuant to Paragraph 94.

v. Timely and adequate establishment of an escrow account for any dispute under Section XV of this Settlement Agreement.

vi. Timely and adequate establishment of Financial Assurance, pursuant to Section XXVI of this Settlement Agreement.

81. Stipulated Penalty Amounts - Reports. The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate reports, and all other deliverables, other than those specifically cited in Paragraphs 80.b.i through 80.b.vi, above, in accordance with this Settlement Agreement:

Penalty Per Violation Per Day	Period of Noncompliance
$ 500	1st through 14th day
$1,000	15th through 30th day
$3,000	31st day and beyond

82. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 100 of Section XX (Reservation of Rights by EPA), Respondents shall be liable for a stipulated penalty in the amount of $250,000.

83. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (1) with respect to a deficient submission under Section X (EPA Approval of Plans and Other Submissions), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondents of any deficiency; and (2) with respect to a decision by the EPA Management Official designated in Paragraph 78 of Section XV (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA Management Official issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

84. Following EPA's determination that Respondents have failed to comply with a requirement of this Settlement Agreement, EPA may give Respondents written notification of the same and describe the noncompliance. EPA may send Respondents a written demand for the payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondents of a violation.

85. All penalties accruing under this Section shall be due and payable to EPA within 45 days of Respondents' receipt from EPA of a demand for payment of the penalties, unless Respondents invoke the dispute resolution procedures in accordance with Section XV (Dispute Resolution). All payments to EPA under this Section shall be paid by certified or cashier's check(s) made payable to "EPA Hazardous Substances Superfund," shall be mailed to:

U.S. Bank
Government Lockbox 979076
1005 Convention Plaza
SL-MO-C2-GL

St. Louis, MO 63101

Such payment shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID Number A8-04, the EPA Docket Number, and the name and address of the party(ies) making payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s) shall be sent to EPA as provided in Paragraph 41, and to:

U.S. EPA-Region 8
Joe Poetter, Financial Management Officer,
1595 Wynkoop Street
Denver, CO 80202

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

87. Penalties shall continue to accrue as provided in Paragraph 83 during any dispute resolution period, but need not be paid until 15 days after the dispute is resolved by agreement or by receipt of EPA's decision.

88. If Respondents fail to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Respondents shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 85.

89. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(l) of CERCLA, 42 U.S.C. § 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that EPA shall not seek civil penalties pursuant to Section 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided herein, except in the case of willful violation of this Settlement Agreement or in the event that EPA assumes performance of a portion or all of the Work pursuant to Section XX (Reservation of Rights by EPA), Paragraph 100. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

XVII. FORCE MAJEURE

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

91. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Respondents shall notify EPA orally within 1 day of when Respondents first knew that the event might cause a delay. Within 14 days thereafter, Respondents shall provide to EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondents' rationale for attributing such delay to a *force majeure* event if they intend to assert such a claim; and a statement as to whether, in the opinion of Respondents, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the above requirements shall preclude Respondents from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

92. If EPA agrees that the delay or anticipated delay is attributable to *a force majeure* event, the time for performance of the obligations under this Settlement Agreement that are affected by the *force majeure* event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify Respondents in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Respondents in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

XVIII. PAYMENT OF RESPONSE COSTS

93. Payment of Past Response Costs.

a. Within 60 days after the Effective Date, Respondents shall pay to EPA $673,809 for Past Response Costs. Payment shall be made to EPA by Electronics Funds Transfer ("EFT") in accordance with current EFT procedures to:

Federal Reserve Bank of New York
ABA=021030004
Account Number: 68010727

and shall be accompanied by a statement identifying the name and address of the party(ies) making payment, the Site name, the EPA Region and Site/Spill ID Number A8-04, and the EPA docket number for this action.

b. At the time of payment, Respondents shall send notice that payment has been made to:

U.S. EPA-Region 8
Joe Poetter, Financial Management Officer,
1595 Wynkoop Street

Denver, CO 80202

c. The total amount to be paid by Respondents pursuant to Subparagraph 93.a shall be deposited in the Smurfit Stone Mill Site Special Account within the 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 EPA to the EPA Hazardous Substance Superfund.

94. Payments of Future Response Costs.

a. Respondents shall pay EPA all Future Response Costs not inconsistent with the NCP. On a periodic basis, EPA will send Respondents a bill requiring payment that includes a Regionally-prepared cost summary, which includes direct and indirect costs incurred by EPA and its contractors, as well as a DOJ-prepared cost summary, which would reflect costs incurred by DOJ and its contractors, if any. Respondents shall make all payments within 45 days of receipt of each bill requiring payment, except as otherwise provided in Paragraph 95 of this Settlement Agreement. Respondents shall make all payments required by this Paragraph by a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund," referencing the name and address of the parties making payment and EPA Site/Spill ID number A8-04. Respondents shall send the check(s) to:

U.S. Bank
Government Lockbox 979076
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

or by Electronics Funds Transfer ("EFT") in accordance with current EFT procedures, to:

Federal Reserve Bank of New York
ABA=021030004
Account Number: 68010727

b. At the time of payment, Respondents shall send notice that payment has been made to:

U.S. EPA-Region 8
Joe Poetter, Financial Management Officer,
1595 Wynkoop Street
Denver, CO 80202

c. The total amount to be paid by Respondents pursuant to Subparagraph 94.a shall be deposited in the Smurfit Stone Mill Site Special Account within the 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 EPA to the EPA Hazardous Substance Superfund.

95. If Respondents do not pay Past Response Costs within 60 days after the Effective Date, or do not pay Future Response Costs within 45 days of Respondents' receipt of a bill, Respondents shall pay Interest on the unpaid balance of Past Response Costs and Future Response Costs, respectively. The Interest on unpaid Past Response Costs shall begin to accrue on the Effective Date and shall continue to accrue until the date of payment. The interest on Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. If EPA receives a partial payment, Interest shall accrue on any unpaid balance. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondents' failure to make timely payments under this Section, including but not limited to, payments of stipulated penalties pursuant to Section XVI. Respondents shall make all payments required by this Paragraph in the manner described in Paragraph 93.

96. Respondents may contest payment of any Future Response Costs under Paragraph 94 if they determine that EPA has made an accounting error or if they believe EPA incurred excess costs as a direct result of an EPA action that was inconsistent with the NCP. Such objection shall be made in writing within 45 days of receipt of the bill and must be sent to the EPA Project Manager. Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, Respondents shall, within the 45 day period, pay all uncontested Future Response Costs to EPA in the manner described in Paragraph 94. Simultaneously, Respondents shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of Montana and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Respondents shall send to the EPA Project Coordinator a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, Respondents shall initiate the Dispute Resolution procedures in Section XV (Dispute Resolution). If EPA prevails in the dispute, within 5 days of the resolution of the dispute, Respondents shall pay the sums due (with accrued interest) to EPA in the manner described in Paragraph 94. If Respondents prevail concerning any aspect of the contested costs, Respondents shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to EPA in the manner described in Paragraph 94. Respondents shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in XV (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Respondents' obligation to reimburse EPA for its Future Response Costs.

XIX. COVENANT NOT TO SUE BY EPA

97. In consideration of the actions that will be performed and the payments that will be made by Respondents under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take administrative action against Respondents pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work, Past Response Costs and Future Response Costs. This covenant not to sue shall take effect upon receipt by EPA of the Past Response Costs due

under Section XVII of this Settlement Agreement and any Interest or Stipulated Penalties due for failure to pay Past Response Costs as required by Sections XVIII and XVI of this Settlement Agreement. This covenant not to sue is conditioned upon the complete and satisfactory performance by Respondents of their obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XVIII. This covenant not to sue (and all reservations thereto in this Settlement Agreement) shall also apply to Respondent's successors and assigns, but only to the extent that the alleged liability of the successor or assign is based on its status in its capacity as a successor or assign of a Respondent, and not to the extent that the alleged liability arose independently of the of the alleged liability of a Respondent. This covenant not to sue extends only to Respondents and Respondents' successors and assigns, but only to the extent that the alleged liability of the successor or assign is based on its status and in its capacity as a successor or assign of a Respondent, and does not extend to any other person.

XX. RESERVATIONS OF RIGHTS BY EPA

98. Except as specifically provided in this Settlement Agreement, nothing herein shall limit the power and authority of 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 EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

99. The covenant not to sue set forth in Section XIX above does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Respondents with respect to all other matters, including, but not limited to:

a. claims based on a failure by Respondents to meet a requirement of this Settlement Agreement;

b. liability for costs not included within the definitions of Past Response Costs or Future Response Costs;

c. liability for performance of response action other than the Work;

d. criminal liability;

e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and

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

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

XXI. COVENANT NOT TO SUE BY RESPONDENTS

101. Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Past Response Costs, Future Response Costs, or this Settlement Agreement, including, but not limited to:

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

b. any claim arising out of the Work or arising out of the response actions for which Past Response Costs or Future Response Costs have or will be incurred, including any claim under the United States Constitution, the Montana Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Work or payment of Past Response Costs or Future Response Costs.

102. These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 99.b., 99.c., and 99.e. – 99.g., but only to the extent that Respondents' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

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

XXII. OTHER CLAIMS

104. By issuance of this Settlement Agreement, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents.

105. Except as expressly provided in Section XIX (Covenant Not to Sue by EPA), nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Respondents or any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

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

XXIII. CONTRIBUTION

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

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

109. Nothing in this Settlement Agreement precludes the United States or Respondents from asserting any claims, causes of action, or demands for indemnification, contribution, or cost recovery against any person not parties to this Settlement Agreement. Nothing herein diminishes the right of the United States, pursuant to Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2)(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

XXIV. INDEMNIFICATION

110. Respondents shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action arising from, or on account of negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Respondents agree to pay the United States all costs incurred by the United States, including but not limited to attorneys fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, subcontractors and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondents in carrying out activities

pursuant to this Settlement Agreement. Neither Respondents nor any such contractor shall be considered an agent of the United States.

111. The United States shall give Respondents notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondents prior to settling such claim.

112. Respondents waive all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work on or relating to the Site. In addition, Respondents shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work on or relating to the Site.

XXV. INSURANCE

113. At least 14 days prior to commencing any On-Site Work under this Settlement Agreement, Respondents shall secure, and shall maintain for the duration of this Settlement Agreement, comprehensive general liability insurance and automobile insurance with limits of one million dollars, combined single limit, naming the EPA as an additional insured. Within the same period, Respondents shall provide EPA with certificates of such insurance and a copy of each insurance policy. Respondents shall submit such certificates and copies of policies each year on the anniversary of the Effective Date (Section XXIX). In addition, for the duration of the Settlement Agreement, Respondents shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondents in furtherance of this Settlement Agreement. If Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Respondents need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXVI. FINANCIAL ASSURANCE

114. Within 45 days of the Effective Date, Respondents shall establish and maintain financial security for the benefit of EPA in the amount of $1.5 million in one or more of the following forms, in order to secure the full and final completion of Work by Respondents:

a. a surety bond unconditionally guaranteeing payment and/or performance of the Work;

b. one or more irrevocable letters of credit, payable to or at the direction of EPA, issued by financial institution(s) acceptable in all respects to EPA equaling the total estimated cost of the Work;

c. a trust fund administered by a trustee acceptable in all respects to EPA;

d. a policy of insurance issued by an insurance carrier acceptable in all respects to EPA, which ensures the payment and/or performance of the Work;

e. a corporate guarantee to perform the Work provided by one or more parent corporations or subsidiaries of Respondents, or by one or more unrelated corporations that have a substantial business relationship with at least one of Respondents; including a demonstration that any such company satisfies the financial test requirements of 40 C.F.R. Part 264.143(f); and/or

f. a corporate guarantee to perform the Work by one or more of Respondents, including a demonstration that any such Respondent satisfies the requirements of 40 C.F.R. Part 264.143(f).

115. Any and all financial assurance instruments provided pursuant to this Section shall be in form and substance satisfactory to EPA, determined in EPA's sole discretion. In the event that EPA determines at any time that the financial assurances provided pursuant to this Section (including, without limitation, the instrument(s) evidencing such assurances) are inadequate, Respondents shall, within 45 days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph114, above. In addition, if at any time EPA notifies Respondents that the anticipated cost of completing the Work has increased, then, within 45 days of such notification, Respondents shall obtain and present to EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Respondents' inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Settlement Agreement.

116. If Respondents seek to ensure completion of the Work through a guarantee pursuant to Subparagraph 114.e or 114.f of this Settlement Agreement, Respondents shall (i) demonstrate to EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f); and (ii) resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date, to EPA. For the purposes of this Settlement Agreement, wherever 40 C.F.R. Part 264.143(f) references "sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates," the current cost estimate of $1.5 million for the Work at the Site shall be used in relevant financial test calculations.

117. If, after the Effective Date, Respondents can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 114 of this Section, Respondents may, on any anniversary date of the Effective Date (Section XXIX), or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Respondents shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security after receiving written approval from EPA. In the event of a dispute, Respondents may seek dispute resolution pursuant to Section XV (Dispute Resolution). Respondents may reduce the amount of security in accordance with EPA's written decision resolving the dispute.

118. Respondents may change the form of financial assurance provided under this Section at any time, upon notice to and prior written approval by EPA, provided that EPA determines that the new form of assurance meets the requirements of this Section. In the event of a dispute, Respondents may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

XXVII. INTEGRATION/APPENDICES

119. This Settlement Agreement and its appendices and any deliverables, technical memoranda, specifications, schedules, documents, plans, reports (other than progress reports), etc. that will be developed pursuant to this Settlement Agreement and become incorporated into and enforceable under this Settlement Agreement constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement:

"Appendix A" is the Work Plan

"Appendix B" is the map of the Site.

XXVIII. ADMINISTRATIVE RECORD

120. EPA will determine the contents of the administrative record file for selection of the remedial action. Respondents shall submit to EPA documents developed during the course of the RI/FS upon which selection of the response action may be based. Subject to any claim of confidentiality or privilege, and upon request of EPA, Respondents shall provide copies of plans, task memoranda for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports and other reports related to the Work. Upon request of EPA, Respondents shall additionally submit any previous studies in their possession conducted under state, local or other federal authorities relating to selection of the response action, and all communications in their possession between Respondents and state, local or other federal authorities concerning selection of the response action. At EPA's discretion, Respondents shall establish a community information repository at or near the Site, to house one copy of the administrative record.

XXIX. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

121. This Settlement Agreement shall be effective immediately upon signature by all of the Parties.

122. This Settlement Agreement may be amended by mutual agreement of EPA and Respondents. Amendments shall be in writing and shall be effective when signed by EPA. EPA Project Managers do not have the authority to sign amendments to the Settlement Agreement.

123. No informal advice, guidance, suggestion, or comment by the EPA Project Manager or other EPA representatives regarding reports, plans, specifications, schedules, or any

other writing submitted by Respondents shall relieve Respondents of their obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

XXX. NOTICE OF COMPLETION OF WORK

124. When EPA determines that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including but not limited to payment of Future Response Costs (Section XVIII) or record retention (Section XIV), EPA will provide written notice to Respondents. If EPA determines that any such Work has not been completed in accordance with this Settlement Agreement, EPA will notify Respondents, provide a list of the deficiencies, and require that Respondents modify the RI Work Plan if appropriate in order to correct such deficiencies, in accordance with Paragraph 46 (Modification of the Work Plan). Failure by Respondents to implement the approved modified RI Work Plan shall be a violation of this Settlement Agreement.

Agreed this 6th day of October, 2015.

For Respondent WestRock CP, LLC

By: Robert B. Newton

Title: EVP & General Counsel

Agreed this 6 day of November, 2015.

For Respondent International Paper Company

By: David Mc-Kinn

Title: Vice President, EHS

Agreed this 6th day of November, 2015.

For Respondent M2Green Redevelopment LLC

By: Raymond S. Stillwell

Title: Manager/Member

It is so AGREED this _____ day of _____, 2_____.

BY:_____ DATE:_____
Martin Hestmark
Director, Office of Ecosystems Protection and Remediation
U.S. Environmental Protection Agency
Region 8

BY: _____ DATE: _____
Andrea Madigan
Supervisory Attorney
U.S. Environmental Protection Agency
Region 8

It is so AGREED this _____ day of _____, 2_____.

BY:_____ DATE:_____
Martin Hestmark
Director, Office of Ecosystems Protection and Remediation
U.S. Environmental Protection Agency
Region 8

BY: _____ DATE: _____
Andrea Madigan
Supervisory Attorney, Superfund Enforcement Program

U.S. Environmental Protection Agency
Region 8

BY: _____ DATE: _____
Kelcey Land
Director, RCRA & CERCLA Technical Enforcement Program
U.S. Environmental Protection Agency
Region 8

EFFECTIVE DATE: _____