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

REPLY TO THE ATTENTION OF:

MAY 14 2012

VIA OVERNIGHT MAIL
AND FACSIMILE

Frank Murray
Vice-President
Heritage-WTI, Inc.
1250 St. George Street
East Liverpool, Ohio 43920-3400

John D. Walton
ATI Wah Chang
1000 Six PPG Place
Pittsburgh, PA 15222

Re: Zirconium Drum Incident Site
East Liverpool, Ohio

Dear Sirs:

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

Please note that the Order allows an opportunity for a conference if requested within three (3) business days after issuance of the Order, or if no conference is requested, an opportunity to submit comments within seven (7) business days of issuance of the Order.

If you have any questions regarding the Order, feel free to contact John Matson, Assistant Regional Counsel, at (312) 886-2243, or Tricia Edwards, On-Scene Coordinator, at (734) 692-7687.

Sincerely,

Richard C. Karl, Director
Superfund Division

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Enclosure

cc: Ohio EPA Superfund Program Manager
Mark J. Morford, Attorney for ATI Wah Chang
Charles Bowers, Attorney for Heritage-WTI

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 5

IN THE MATTER OF:	)	**Docket No.** V-W-12-C-998
	)	
Zirconium Drum Incident Site,	)	**ADMINISTRATIVE ORDER**
	)	**PURSUANT TO SECTION 106(a)**
East Liverpool, Ohio	)	**OF THE COMPREHENSIVE**
	)	**ENVIRONMENTAL RESPONSE,**
	)	**COMPENSATION, AND**
	)	**LIABILITY ACT OF 1980,**
	)	**AS AMENDED, 42 U.S.C. § 9606(a)**

I. JURISDICTION AND GENERAL PROVISIONS

This Order is issued pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. § 9606(a), and delegated to the Administrator of the United States Environmental Protection Agency by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by U.S. EPA Delegation Nos. 14-14-A and 14-14-B, and to the Director, Superfund Division, Region 5, by Regional Delegation Nos. 14-14-A and 14-14-B.

This Order pertains to the property located at Heritage-WTI, Inc. (WTI), 1250 St. George Street East Liverpool, Ohio 43920-3400 (the WTI Site or the Site). This Order requires the Respondents WTI and ATI Wah Chang (Wah Chang) to conduct removal activities described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

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

II. PARTIES BOUND

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

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

III. FINDINGS OF FACT

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

1. The Site is located at 1250 St. George Street, East Liverpool, Ohio.

2. The Site is the current location of the hazardous waste incinerator owned and operated by WTI.

3. On or about December 12, 2011, WTI received a shipment of hazardous waste generated by Wah Chang, consisting of forty 55-gallon drums overpacked in 85-gallon drums (Drums).

4. The Drums contained Zirconium Waste.

5. The Zirconium Waste received by WTI from Wah Chang was labeled as a hazardous waste.

6. WTI subsequently began preparing the Zirconium Waste for incineration.

7. On December 17, 2011, while repackaging a drum of the Zirconium Waste to prepare it for incineration, a chemical reaction occurred causing an explosion of the drum which killed one WTI employee, seriously injured another WTI employee, and damaged a second drum.

8. WTI ceased repackaging the Zirconium Waste on December 17, 2011, and subsequently requested that Wah Chang arrange for the removal and safe transport of the Zirconium Waste from the WTI facility.

9. On April 24, 2012, the President of WTI called EPA and expressed concern about the presence of the Zirconium Waste at the Site and requested EPA assistance.

9. As of the date of this Order, 33 drums of the Zirconium Waste remain at the WTI facility.

10. The Zirconium Waste at the WTI facility creates an imminent and substantial risk of an actual or threatened release of a hazardous substance from the WTI facility.

IV. CONCLUSIONS OF LAW AND DETERMINATIONS

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

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

2. The Zirconium Waste is a "hazardous substance" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

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

4. Respondent WTI is the present "owner" and "operator" of the WTI Site, as defined by Section 101(20) of CERCLA, 42 U.S.C. §9601(20). Respondent Wah Chang is a person who generated or arranged for disposal or transport for disposal of hazardous substances at the WTI Site. Respondents are therefore liable persons under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

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

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

a. Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants:

The Site, located within a mixed residential and industrial area, is within two miles of the East Liverpool, Ohio and Chester, West Virginia. The City of East Liverpool is home to 13,000 residents, while the City Chester, West Virginia is home to approximately 2,500 residents. According to the latest demographic information for East Liverpool, Ohio, there are 5,261 households out of which 32.9% had children under the age of 18 living with them. The nearest residences and industrial businesses are located within 200 feet of the Site.

The actual or potential threat to nearby human populations and animals or the food chain would be as result of a release involving the zirconium powdered waste contained in the Drums. If the zirconium powdered waste in one of the drums is wet, toxic gases and vapors such as hydrogen gas and steam may be released in fires involving wet zirconium fines. An uncontained fire within the Site may impact other waste containers resulting in a release of contaminants into the air or ground. Such an uncontained fire may result in

the need to evacuate the surrounding population from exposure to the released wastes and/or combustion byproducts. An airborne contaminant plume may also threaten local fauna through inhalation or surface contact.

Zirconium
Zirconium is a strong, malleable, ductile, lustrous, grayish-white, non-toxic metal. It is generally exceptionally resistant to corrosion. Given its properties, the material is used in a variety of high temperature applications. These applications include its use in cladding nuclear fuel rods, as well as high temperature parts such as combustors, blades and vanes in jet and rocket engines.

Conditions contributing to instability vary with the form of zirconium or with the specific zirconium compound. Powdered zirconium and zirconium borings and shavings are highly flammable and may spontaneously ignite in air. In contact with water, zirconium tetrachloride vigorously reacts to form hydrogen chloride, which can also spontaneously ignite in air.

b. Actual or potential contamination of drinking water supplies or sensitive ecosystems from hazardous substances, pollutants or contaminants:

A 0.45 mile section of the Site abuts the west bank of the Ohio River, which flows southwestward from the Site towards the Cities of East Liverpool, Ohio and Chester, West Virginia. The Ohio River is the primary drinking water source for numerous municipalities both upstream and downstream of the Site in the states of Ohio, Pennsylvania and West Virginia.

There are also several lakes and reservoirs within a 1.0 mile radius of the Site which are a source of drinking water to local flora.

An uncontained fire within the Site may impact other waste containers resulting in a release of contaminants into the air or ground. The Site maintains a surface water collection system which treats contaminated surface water prior to its offsite discharge. A release to the ground would likely be contained by this surface water collection system. The actual or potential contamination threat to drinking water would be the result of a reaction between plume contaminants in the air and surface water, such as the adjacent Ohio River. Contamination of the Ohio River and/or local lakes/reservoirs would degrade drinking water quality and potentially impact the sensitive ecosystems.

c. Hazardous substance or pollutants or contaminants in drums, barrel, tanks, or other bulk storage, that may pose a threat of release:

There are thirty-two 55-gallon drums in 85-gallon steel overpack containers, which contain zirconium grinding swarf (powder) produced during the finishing of zirconium alloy plates. A 33rd drum is being stored separately because WTI employees had opened

the drum and drained off the saturation solution at the time of the December 17, 2011 incident. The 33rd drum now is immersed in fire suppressant.

The zirconium powder in the Drums includes metal fines or threads, small particles of the grinding media (minerals such as garnet), water and Cal-Grind 1541®. The waste generator believes that the powder in the Drums could include trace amounts of titanium alloys as well. During the finishing process the powder is saturated with a solution containing water and Cal-Grind 1541®, a water soluble coolant. The Drums also contain a water soluble oil, Hangsterfer's S-500® CF, that is added to the drums before they were shipped for disposal.

d. Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released:

The Zirconium waste is currently stored in 55-gallons drums in a water soluble oil solution. The 55-gallon drums are overpacked in 85-gallon drums which also contain the water soluble oil solution. As the summer months approach the internal temperature of the Drums could rise, potentially causing some evaporation of the solution. The Zirconium waste is stable when it is saturated, although if allowed to become dry, the waste may spontaneously ignite.

In addition, increasing ambient temperatures at the Site could dry out a portion of the zirconium which could cause a fire due to the reactive nature of the waste.

e. Threat of fire or explosion:

Zirconium is air reactive and may spontaneously ignite. On December 17, 2011, one of the original 40 Drums of zirconium waste that was delivered to the Site for disposal spontaneously combusted and exploded, resulting in the death of one WTI employee and injury to a second employee. 33 Drums of zirconium waste remain on the Site and have the potential to spontaneously ignite if the water soluble oil bath in the drums is allowed to evaporate, exposing dry powder to the air.

f. The availability of other appropriate federal or state response mechanisms to respond to the release:

U.S. EPA Region V - Emergency Response Branch was contacted by WTI on April 20, 2011 requesting assistance due to the potentially imminent and substantial threat to human health and the environment presented by the known hazardous substance onsite at their facility.

U.S. EPA subsequently retained a 24-hour emergency response and remedial services contractor who can respond to a release at the Site. Ohio EPA is currently working with U.S. EPA personnel to address the proper disposal of the zirconium waste and would be available in the event of a release.

g. Other situations or factors that may pose a threat to human health or the environment:

The zirconium waste Drums are located within the Site's container unloading, processing & storage building, where other solid material wastes are stored and processed prior to incineration. An explosion or fire resulting from one or more of the Drums has the potential to spread to other waste containers, which may result in a release beyond the perimeter of the Site.

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

8. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment, and are consistent with the NCP and CERCLA.

V. ORDER

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

1. Notice of Intent to Comply

Respondents shall notify U.S. EPA in writing within 2 business days after the effective date of this Order of Respondents' irrevocable intent to comply with this Order. Failure of each Respondent to provide such notification within this time period shall be a violation of this Order.

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

Respondents shall perform the removal actions themselves or retain qualified contractors to implement the removal actions. Respondents shall notify U.S. EPA of Respondents' qualifications or the name and qualifications of such contractors, whichever is applicable, within 3 business days of the effective date of this Order. Respondents shall also notify U.S. EPA of the name and qualifications of any other contractors or subcontractors retained to perform work under this Order at least 3 business days prior to commencement of such work. U.S. EPA retains the right to disapprove of the Respondents or any of the contractors and/or subcontractors retained by the Respondents. If U.S. EPA disapproves a selected contractor, Respondents shall retain a different contractor within 2 business days following U.S. EPA's disapproval and shall notify U.S. EPA of that contractor's name and qualifications within 3 business days of U.S. EPA's disapproval.

The contractors retained by the Respondents must demonstrate compliance with American

National Standards Institute/American Society for Quality Control (ANSI/ASQC) E-4-2004, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), by submitting a copy of the proposed contractors' 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), or equivalent documentation as required by U.S. EPA. Any decision not to require submission of the contractor's QMP should be documented in a memorandum from the On-Scene Coordinator (OSC) and Regional quality assurance personnel to the Site file.

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

U.S. EPA has designated Tricia Edwards of the Emergency Response Branch, Region 5, as its OSC. Respondents shall direct all submissions required by this Order to the OSC at 9311 Groh Road, Grosse Ile, MI 48138, by certified or express mail. Respondents shall also send a copy of all submissions to John Matson, Assistant Regional Counsel, 77 West Jackson Boulevard, C-14J, Chicago, Illinois, 60604-3590. All Respondents are encouraged to make their submissions to U.S. EPA on recycled paper (which includes significant post-consumer waste paper content where possible) and using two-sided copies.

3. Work to Be Performed

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

a. Develop and implement a Site-specific Health and Safety Plan, including a Site Emergency Contingency Plan;

b. Develop and implement a Site Work Plan and Transportation Plan;

c. Safely and promptly stabilize and secure the Zirconium Waste to eliminate or minimize the risk of a release of the Zirconium Waste;

d. Arrange for the prompt and safe transportation of the Zirconium Waste from the Site by a Shipper qualified and licensed to handle the waste stream;

e. Take all necessary steps to ensure the prompt and safe transport of the Zirconium Waste from the Site in accordance with all United States Department of Transportation and State Requirements;

f. Arrange for the prompt and safe disposal of the Zirconium Waste from the Site at a facility qualified and licensed to dispose of the Zirconium Waste in its present form;

g. All hazardous substances, pollutants, or contaminants removed off-site pursuant to this removal action for treatment, storage, and disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by EPA, with the EPA Off-Site Rule 40 C.F.R. § 300.440; and

h. Take other response actions to address any release or threatened release of a hazardous substance, pollutant or contaminant at or from the site that the OSC determines exists and may pose an imminent and substantial endangerment to the public health or the environment.

3.1 Work Plan and Implementation

Within 3 business days after the effective date of this Order, the Respondents shall submit to U.S. EPA for approval a draft Work Plan for performing the removal activities set forth above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the activities required by this Order. The Work Plan shall include a Quality Assurance Project Plan (QAPP). The following documents shall be used for the development of QAPPs for Region 5 Superfund sites:

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

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

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

U.S. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan. If U.S. EPA requires revisions, Respondents shall submit a revised draft Work Plan within 4 business days of notification. Respondents shall implement the Work Plan as finally approved in writing by U.S. EPA in accordance with the schedule approved by U.S. EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications

shall be fully enforceable under this Order. Respondents shall notify U.S. EPA prior to performing any on-site work pursuant to the U.S. EPA approved Work Plan. Respondents shall not commence or undertake any removal actions at the Site without prior U.S. EPA approval and offering U.S. EPA the opportunity to have U.S. EPA representation on-site.

3.2 Health and Safety Plan

Within 5 business days after the effective date of this Order, the Respondents shall submit a plan for U.S. EPA review and comment that ensures the protection of the public health and safety during performance of on-site work under this Order. This plan shall comply with applicable Occupational Safety and Health Administration (OSHA) regulations found at 29 CFR Part 1910. If U.S. EPA determines it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by U.S. EPA, and implement the plan during the pendency of the removal action.

3.3 (Omitted)

3.4 Reporting

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

Respondents will also provide U.S. EPA with daily updates, via e-mail, regarding the status of the work during times when the drums are being processed on-site, until all drums have been evaluated, stabilized, and prepped for shipment.

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

3.5 Final Report

Within 30 calendar days after completion of all removal actions required under this Order, the Respondents shall submit for U.S. EPA review a final report summarizing the actions taken to comply with this Order. The final report shall conform to the requirements set forth in Section 300.165 of the NCP. The final report shall also include a good faith estimate of total costs

incurred in complying with the Order, a listing of quantities and types of materials removed, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits).

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

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

4. Access to Property and Information

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

Where work under this Order is to be performed in areas concerning Zirconium Waste at the Site in possession of someone other than Respondents, Respondents shall obtain all necessary access agreements within 3 calendar days after the effective date of this Order, or as otherwise specified in writing by the OSC. Respondents shall immediately notify U.S. EPA if, after using their best efforts, they are unable to obtain such agreements. Respondent shall describe in writing their efforts to obtain access. U.S. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the response activities described herein, using such means as U.S. EPA deems appropriate.

5. Record Retention, Documentation, Availability of Information

Respondents shall preserve all documents and information, in its (their) possession or the possession of its (their) contractors, subcontractors or representatives, relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for six years following completion of the removal actions required by this Order. At the end of this six year period and at least 60 days before any document or information is destroyed, Respondents shall notify U.S. EPA that such documents and information are available to U.S. EPA for inspection, and upon request, shall provide the originals or copies of such

documents and information to U.S. EPA. In addition, Respondents shall provide documents and information retained under this Section at any time before expiration of the six year period at the written request of U.S. EPA. Any information that Respondents are required to provide or maintain pursuant to this Order is not subject to the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 et seq.

6. Off-Site Shipments

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

7. Compliance With Other Laws

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

8. Emergency Response and Notification of Releases

If any incident, or change in Site conditions, during the activities conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment, the Respondents shall immediately take all appropriate action to prevent, abate or minimize such release, or endangerment caused or threatened by the release. Respondents shall also immediately notify the OSC or, in the event of his/her unavailability, shall notify the Regional Duty Officer, Emergency Response Branch, Region 5 at (312) 353-2318, of the incident or Site conditions. In addition to notification of the U.S. EPA, if there is an incident that results in any type of release or explosion, notify the National Response Center (NRC) at (800) 424-8802. Respondents shall submit a written report to U.S. EPA within 7 business days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. Respondents shall also comply with any other notification requirements, including those in Section 103 of CERCLA, 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11004.

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

The OSC shall be responsible for overseeing the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by

U.S. EPA or Respondents at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

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

VII. PENALTIES FOR NONCOMPLIANCE

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

VIII. REIMBURSEMENT OF COSTS

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

Respondents shall, within 30 days of receipt of the bill, remit a cashier's or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," to the following address:

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

Respondents shall simultaneously transmit a copy of the check to the Director, Superfund Division, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590. Payments shall be designated as "Response Costs – Zirconium Drum Incident Site" and shall reference the payers' name and address, the U.S. EPA site identification number C5F9, and the docket number of this Order.

Interest at a rate established by the Department of the Treasury pursuant to 31 U.S.C. § 3717 and 4 C.F.R. § 102.13 shall begin to accrue on the unpaid balance from the day after the expiration of the 30 day period notwithstanding any dispute or an objection to any portion of the costs.

IX. RESERVATION OF RIGHTS

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

X. OTHER CLAIMS

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

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

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

XI. MODIFICATIONS

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

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

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

XII. NOTICE OF COMPLETION

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

XIII. ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record supporting these removal actions is available for review during normal business hours in the U.S. EPA Record Center, Region 5, 77 W. Jackson Blvd., Seventh Floor, Chicago, Illinois. Respondents may contact John Matson, Assistant Regional Counsel, at (312) 886-2243 to arrange to review the Administrative Record. An index of the Administrative Record is attached to this Order.

XIV. OPPORTUNITY TO CONFER

Within 2 business days after issuance of this Order, Respondents may request a conference with U.S. EPA. Any such conference shall be held within 3 business days from the date of the request, unless extended by agreement of the parties. At any conference held pursuant to the request, Respondents may appear in person or be represented by an attorney or other representative.

If a conference is held, Respondents may present any information, arguments or comments regarding this Order. Regardless of whether a conference is held, Respondents may submit any information, arguments or comments (including justifications for any assertions that the Order should be withdrawn against a Respondent), in writing to U.S. EPA within 2 business days following the conference, or within 7 business days of issuance of the Order if no conference is requested. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not give Respondents a right to seek review of this Order.

Requests for a conference shall be directed to John Matson, Assistant Regional Counsel, at (312) 886-2243. Written submittals shall be directed as specified in Section V.2 of this Order.

XV. SEVERABILITY

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

XVI. EFFECTIVE DATE

This Order shall be effective three (3) business days following its issuance. Within thirty (30) days after the effective date of this Order and every 12 months thereafter until notice of completion of work under Section XII, each of the Respondents shall demonstrate to U.S. EPA that they meet one of the financial assurance mechanisms specified in 40 C.F.R. § 264.143 for the sufficient estimated costs of work to be performed by the Respondents under this Order.

IT IS SO ORDERED

BY: Richard C Karl DATE: 5-14-12

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

ATTACHMENT A

ADMINISTRATIVE RECORD INDEX

ZIRCONIUM DRUM INCIDENT SITE
EAST LIVERPOOL, COLUMBIANA COUNTY, OHIO

MAY 2012

NO.	DATE	AUTHOR	RECIPIENT	TITLE / DESCRIPTION	PAGES
1		OSHA		Occupational Safety and Health Guideline for Zirconium & Compounds	11
2		University of Pittsburgh Safety Manual		Combustible Metals	7
3		U.S. Census Bureau		2010 Demographic Profile – East Liverpool, OH	2
4		U.S. Census Bureau		2010 Demographic Profile – West Chester, WV	2
5	12/20/11	Jo-Ann Bobby-Gilbert Salem News	Public Distribution	Glenmoor Man dies of Injuries from fire at WTI	1
6	12/6/11	Wah Chang	Heritage-WTI	COPY: Uniform Hazardous Waste Manifest Tracking Number 000167371 **(CBI)**	1
7	12/19/12	Heritage-WTI		Incident Investigation Report **(CBI)**	15
8	5/8/12	T. Edwards	P. Allen, OEPA	ARAR Request Letter	5/8/12
9	5/XX/12	T. Edwards	R. Karl	Action Memorandum: Zirconium Drum Incident Site **(PENDING)**	5/XX/12

ATTACHMENT B

LIABILITY FILE INDEX

1. Uniform Hazardous Waste Manifest Tracking Number 000167371 (Currently unavailable due to pending claim of Confidential Business Information).

2. Heritage-WTI Wastestream Survey, dated December 19, 2011 (Currently unavailable due to pending claim of Confidential Business Information).

3. March 26, 2012 Incident Investigation Report Prepared by Heritage-WTI 2011 (Currently unavailable due to pending claim of Confidential Business Information).