UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH 5th STREET
KANSAS CITY, KANSAS 66101

IN THE MATTER OF:	)	
	)	
FORMER MANUFACTURED GAS PLANT SITE	)	
BEATRICE, GAGE COUNTY, NEBRASKA	)	
	)	
	)	Docket No.: CERCLA-07-2006-0109
	)	
CITY OF BEATRICE, NEBRASKA,	)	
	)	
AND	)	
	)	
CENTEL CORPORATION,	)	
	)	
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.	)	

ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT
FOR ENGINEERING EVALUATION/COST ANALYSIS

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 City of Beatrice, Nebraska and Centel Corporation (collectively, "Respondents"). This Settlement Agreement provides for the performance of an Engineering Evaluation/Cost Analysis ("EE/CA") pursuant to 40 C.F.R. § 300.415 of the National Oil and

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Hazardous Substances Pollution Contingency Plan ("NCP"), at the former manufactured gas plant site ("Site"), located in Beatrice, Gage County, Nebraska.

2. This Settlement Agreement is issued pursuant to 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 of 1980, 42 U.S.C. §§ 9604, 9607 and 9622, as amended ("CERCLA"), and delegated to the Administrator of the EPA by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the EPA Regional Administrators by the EPA Delegation Nos.14-14-C and 14-14-D. This authority was subsequently delegated to the Director of the Superfund Division, EPA, Region 7, by Delegation Nos. R7-14-14-C, and R7-14-14-D.

3. Respondents' participation in this Settlement Agreement shall not constitute or be construed as an admission of liability or of agreement with the findings or determinations contained in this Settlement Agreement. Respondents agree to comply with, and be bound by the terms of this Settlement Agreement. Respondents consent to and agree not to contest the EPA's authority or jurisdiction to issue or to enforce this Settlement Agreement. Respondents further agree not to contest the basis or validity of this Settlement Agreement or any of its terms.

4. The EPA has notified the state of Nebraska of the issuance of this Settlement Agreement.

II. PARTIES BOUND

5. This Settlement Agreement applies to and is binding upon the EPA, and upon Respondents, their agents, successors and assigns, and upon all persons, contractors, and consultants acting under or for Respondents. The signatories to this Settlement Agreement certify that they are authorized to execute and legally bind the parties they represent to this Settlement

Agreement. 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 any of Respondents' responsibilities under this Settlement Agreement.

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 Respondents to implement requirements of this Settlement Agreement, the remaining Respondent 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.

III. DEFINITIONS

8. Unless otherwise expressly provided herein, terms used in this Settlement Agreement which 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 documents attached to this Settlement Agreement or incorporated by reference into this Settlement Agreement, the following definitions shall apply:

a. "Coal tar" shall mean, for the purposes of this Settlement Agreement, coal tar, water gas tar or light oil, drip oils or tar-oil-water emulsions resulting from the carbureted water-gas process or the coal carbonization process.

b. "Day" shall mean a calendar day unless expressly stated to be a business day. "Business day" shall mean any day other than a Saturday, Sunday, or Federal holiday. 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 end of the next Working day.

c. "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, the costs incurred pursuant to Paragraph 35 (costs and attorneys fees and any monies paid to secure access) only if Respondents do not use their best efforts, including the amount of just compensation, as defined herein and Paragraph 47 (emergency response).

d. "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 on October 1 of each year, 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.

e. "National Contingency Plan" or "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 et seq., as amended.

f. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral, a letter of the alphabet or a lower case Roman numeral.

g. "Parties" shall mean the United States and the Respondents.

h. "RCRA" shall mean the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments, 42 U.S.C. § 6901 et seq.

i. "Respondents" shall mean the City of Beatrice, Nebraska and Centel Corporation.

j. "Section" shall mean a portion of this Settlement Agreement identified by an upper-case Roman numeral and includes one or more paragraphs, unless used to refer to a statutory or regulatory section.

k. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent for Engineering Evaluation/Cost Analysis and all appendices attached hereto. In the event of conflict between this Settlement Agreement and any provision of any appendices hereto, the terms and conditions of this Settlement Agreement shall control.

l. "Site" shall mean the property located at the southwest corner of First and Market Streets, in Beatrice, Gage County, Nebraska, also known as Lots 7, 8, 9, 10, 11 and 12, Block 71, original town, now City of Beatrice, Gage County, Nebraska and depicted generally on the map attached as Appendix A.

m. "United States" shall mean the United States of America, and any and all agencies and instrumentalities thereof.

n. "Work" shall mean all activities Respondent is required to perform under this Settlement Agreement, including any activities required to be undertaken pursuant to the terms and conditions of this Settlement Agreement and the Statement of Work ("SOW") set forth in Attachment A.

IV. FINDINGS OF FACT

9. The Site is located on the southwest corner of the intersection of First and Market Streets in Beatrice, Gage County, Nebraska. A manufactured gas plant operated at the Site from 1906 until 1932. During the period from 1945 to 1976, the Site was owned and operated by Central Electric & Gas Company. The Site is presently owned by the City of Beatrice, Nebraska.

10. Soil and groundwater samples collected by EPA during investigation of the Site in December 2001 and September 2005 document the presence of polyaromatic hydrocarbons (PAHs) (benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, chrysene, dibenz(a,h) anthracene, fluorine, indeno(1,2,3-cd) pyrene, napththalene and pyrene), volatile organic compounds (benzene, ethylbenzene, 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene and total xylenes) and metals (arsenic, lead and selenium) at concentrations that exceed EPA preliminary remediation goals.

11. Groundwater contamination is concentrated in the southern portion of the Site and appears to be migrating to the southwest toward the Big Blue River, approximately 0.1 mile downgradient of the Site. The Big Blue River has been designated as a fishery used for recreational fishing and consumption.

12. Respondent Centel Corporation is a Kansas corporation.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

13. Based on the Findings of Fact set forth above, and the Administrative Record supporting this EE/CA, EPA has determined that:

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

b. The contaminants found at the Site, as identified in the Findings of Fact above, include "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

c. The conditions at the Site constitute an actual or threatened "release" of a hazardous substance from a facility as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601 (22).

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

e. Each Respondent is liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is liable jointly and severally for performance of response action and for response costs incurred and to be incurred at the Site.

f. The EE/CA required by this Settlement Agreement is necessary to protect the public health, welfare, or the environment, and, if carried out in compliance with the terms of this Settlement Agreement, will be considered consistent with the NCP, as provided in Section 300.700(c)(3)(ii) of the NCP.

VI. SETTLEMENT AGREEMENT AND ORDER

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

VII. DESIGNATION OF CONTRACTOR AND PROJECT COORDINATOR

15. The Respondents designate as their Project Coordinator:

Brian Wiedower
6480 Sprint Parkway
Mailstop KSOPHM 05116-58874
Overland Park, KS 66251-6100

By execution and acceptance hereof, the EPA approves the Respondent's selection of project coordinator.

16. Respondents' Project Coordinator shall be responsible for administration of all the actions required of Respondents by the Settlement Agreement. Respondents' Project Coordinator shall be present at the Site or readily available by telephone during Site Work.

17. Black & Veatch shall serve as the Respondents' initial contractor. The EPA retains the right to disapprove of any, or all, of the contractors, or subcontractors or Project Coordinator subsequently selected by Respondents, pursuant to Section X (Submissions Requiring EPA Approval). If the EPA disapproves of a subsequently selected contractor, subcontractor, or Project Coordinator, Respondents shall retain a different person and shall notify the EPA of that person's name, address, telephone number, and qualifications within thirty (30) days following Respondents' receipt of the EPA's written notice of disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from the EPA relating to the Work shall constitute receipt of the same by Respondents. Respondents shall also notify the EPA of the name and qualifications of any other contractors or subcontractors retained to perform Work under this Settlement Agreement at least ten (10) days prior to commencement of such Work.

18. The EPA has designated Kevin Larson as its Project Coordinator. Respondents shall direct all submissions required by this Settlement Agreement to Mr. Larson at the United

States Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551-7808.

19. The EPA and the Respondents shall have the right to change their designated Project Coordinators and contractors. To the extent practicable, verbal notice of such change shall be provided to the other parties within forty-eight (48) hours of such change and written notice shall follow within five (5) working days of such change.

VIII. WORK TO BE PERFORMED

20. Respondents shall conduct the EE/CA in accordance with the provisions of this Settlement Agreement, the SOW, CERCLA, the NCP and EPA guidance, including, but not limited to, "Guidance on Conducting Non-Time Critical Removal Actions under CERCLA", OSWER Directive No. N360.0-32 (August 1993). The goals of the EE/CA are: (i) to satisfy all environmental review requirements (e.g. site characterization and risk assessment) for selection of a removal action to address soil contamination and to control migration of groundwater contamination at the Site; and (ii) to provide a framework for evaluating alternative technologies for the clean-up of the Site. The EE/CA shall include, but is not limited to, the following:

a. Additional site characterization activity which, in conjunction with the site characterization work already undertaken at this Site, is sufficient to identify and evaluate appropriate removal alternatives, as set forth in the SOW and the OSWER Directive No. 9360.0-32 described above. All field activities to be conducted for this EE/CA shall be conducted in accordance with an EPA-approved Work Plan, to be submitted to the EPA as set forth in the SOW, and in accordance with the requirements of paragraphs 22-25 below. Respondents shall implement the Health and Safety Plan, as described in paragraph 25 below, prior to conducting any site characterization activities under this Settlement Agreement;

b. A Baseline Risk Assessment to identify and characterize the actual and potential risks to human health and the environment, if any, due to contamination at the Site. The Baseline Risk Assessment shall be prepared in accordance with the SOW, EE/CA Work Plan and applicable EPA guidance, including but not limited to EPA's "Risk Assessment Guidance for Superfund, Volume I, Human Health Evaluation Manual", OSWER Directive 9285.7-01a (October 1989), and "Risk Assessment Guidance for Superfund, Volume II, Environmental Evaluation Manual", OSWER Directive 9285.7-02 (March 1989);

c. An identification of removal action objectives, as more specifically set forth in OSWER Directive No. 9360.0-32 and the SOW;

d. An identification and comparative analysis of removal action alternatives, analyzing effectiveness, implementability and cost, as set forth in OSWER Directive No. 9360.0-32 and the SOW; and

e. A recommended removal action alternative.

21. Within sixty (60) days after the effective date of this Settlement Agreement, the Respondents shall submit to the EPA for review and approval a Work Plan for performing the Work required herein, in accordance with the attached SOW. The Work Plan shall provide a description of and a detailed schedule for the implementation of the EE/CA, as described in the SOW.

22. The EPA shall review the Work Plan in accordance with Section X of this Settlement Agreement (Submissions Requiring EPA Approval). Once approved, or approved with modifications, the Work Plan, the schedule contained therein, and any subsequent modifications shall become a part of, and shall be fully enforceable under, this Settlement

Agreement. Respondents shall implement the Work Plan as finally approved in writing by the EPA in accordance with the schedule approved by the EPA.

23. Respondents shall notify the EPA at least 5 working days prior to performing any on-site Work pursuant to the Work Plan approved by the EPA. Respondents shall not commence or undertake any Work at the Site without prior the EPA approval of the Work Plan.

24. Simultaneously with submittal of the Work Plan, Respondents shall submit to the EPA, for review and comment, a Health and Safety Plan that ensures the protection of the public health and safety during performance of the Work required by this Settlement Agreement. This plan shall comply with the specifications in the attached SOW. Respondents shall implement the Health and Safety Plan during the performance of the Work required by this Settlement Agreement.

25. As part of the Work Plan, Respondents shall submit to the EPA a Quality Assurance Project Plan ("QAPP") for all sampling and monitoring activities to be undertaken as part of this Settlement Agreement. The QAPP shall be prepared in accordance with the attached SOW. The QAPP shall be subject to EPA approval in accordance with Section X (Submissions Requiring EPA Approval). All sampling and analyses performed pursuant to this Settlement Agreement shall conform to the EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures in accordance with the appropriate EPA guidance described in the attached SOW.

26. Upon request by the EPA, Respondents shall have a laboratory, other than the laboratory being used by Respondents, to analyze a reasonable number of samples submitted by the EPA for quality assurance monitoring.

27. Upon request by the EPA, Respondents shall allow the EPA or its authorized representatives to take split or duplicate samples of any samples collected by Respondents while performing Work pursuant to this Settlement Agreement. Respondents shall notify the EPA not less than 5 days in advance of any sample collection activity. The EPA shall have the right to take any additional samples that it deems necessary and Respondents shall be allowed to collect splits or duplicates of any such samples.

28. Respondents shall only use laboratories which have a documented quality system that complies with ANSI/ASQC E-4 1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995) and "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01-002, March 2001) or equivalent documentation as determined by the EPA. The EPA may consider laboratories accredited by the National Environmental Laboratory Accreditation Program ("NELAP") to meet the quality system requirements.

29. Beginning with the first full month following the effective date of this Settlement Agreement, Respondents shall submit to the EPA by the fifteenth (15th) day of each month, written progress reports concerning activities performed pursuant to this Settlement Agreement until this Settlement Agreement is terminated, unless otherwise directed by the EPA or otherwise agreed to in writing by the Parties. These reports shall describe actions which have been taken to comply with the Settlement Agreement during the previous month; results of validated sampling and tests and all other validated data received by the Respondents; work planned for the next reporting period with scheduling related to such work and the overall project schedule for the EE/CA process; anticipated problems, actual problems encountered, and any delays and solutions developed and implemented to address those problems or delays.

30. Within 90 days after Respondents have received all validated analytical data generated as a result of site characterization work required by this Settlement Agreement, the Respondents shall submit for EPA review and comment a draft Site Characterization section of the EE/CA Report.

31. Within 90 days after EPA has approved and accepted the Site Characterization section of the EE/CA Report, the Respondents shall submit for EPA review and comment a draft Baseline Risk Assessment section of the EE/CA Report.

32. The EPA shall review the Site Characterization and the Baseline Risk Assessment sections of the EE/CA Report in accordance with Section X of this Settlement Agreement (Submissions Requiring EPA Approval).

33. Within 90 days after receipt of the EPA's approval of the Site Characterization and Baseline Risk Assessment sections of the EE/CA Report, Respondents shall submit for EPA review and approval an EE/CA Report, prepared in accordance with the requirement of this Settlement Agreement and the SOW. The EE/CA Report shall be subject to the review and approval procedures of Section X (Submissions Requiring Agency Approval) of this Settlement Agreement.

IX. SITE ACCESS

34. If the Site, or any other property where access is needed to implement this Settlement Agreement, is owned or controlled by any of the Respondents, such Respondents shall, commencing on the Effective Date, provide the EPA, the Party doing the Work, 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.

35. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than a Respondent, Respondents shall use their best efforts to obtain all necessary access agreements within 45 days after the Effective Date, or later as otherwise specified in writing by the OSC. Respondents shall notify the EPA if after using their best efforts they are unable to obtain such agreements. As used in this Section, "best efforts" shall include an initial visit, a follow-up telephone call and a certified letter from Respondents to the present owner of the property, requesting an access agreement to permit Respondents and the EPA, including its authorized representatives, access to the property to conduct the activities required under this Settlement Agreement. In Respondents' notification to the EPA of failure to obtain access, Respondents shall describe and document in writing their efforts to obtain access. The EPA may either: (i) obtain access for Respondents or assist Respondents in gaining access, to the extent necessary to effectuate the response activities described herein, using such means as the EPA deems appropriate, including exercising its authority pursuant to Section 104(e) of CERCLA, 42 U.S.C. § 9604(e); or (ii) perform those tasks or activities with EPA contractors. All costs and attorney's fees incurred by the United States in obtaining access shall be reimbursed by Respondents where EPA determines that Respondents did not use their best efforts to obtain site access agreements as set forth in this Settlement Agreement, subject to Section XVII (Reimbursement of Costs) and Section XVIII (Dispute Resolution).

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

X. SUBMISSIONS REQUIRING EPA APPROVAL

37. The following procedure will apply to the review and approval of all documents submitted to the EPA for review and approval pursuant to the requirements of this Settlement Agreement. The EPA will review each document and notify Respondents in writing, as to its approval or disapproval thereof. In the event the EPA does not approve any such document it will provide a written statement as to the basis of the disapproval. Within thirty (30) working days of receipt of the EPA comments, or such other time as specified by the EPA in the written statement, Respondents shall revise the document not approved by the EPA addressing the EPA's written comments and resubmit it to the EPA. Revised submittals are subject to EPA approval, approval with conditions, or disapproval with modifications by the EPA subject to dispute resolution.

38. Notwithstanding the receipt of a notice of disapproval pursuant to Paragraph 37 Respondents shall proceed, at the direction of the EPA, to take any action required by any non-deficient portion of the submission. Implementation of any non-deficient portion of a submission shall not relieve Respondents of any liability for stipulated penalties under Section XX (Stipulated Penalties).

39. In the event that a resubmitted plan, report or other item, or portion thereof, is disapproved or modified by the EPA due to a material defect, Respondents may be deemed to have failed to submit such plan, report, or other item in a timely and adequate manner, unless Respondents invoke the procedures of Section XVIII (Dispute Resolution), and the EPA's action is overturned pursuant to the Section.

40. The provisions of Section XVIII (Dispute Resolution) and Section XX (Stipulated Penalties) shall govern the implementation of the Work, and accrual and payment of any stipulated penalties during dispute resolution. If the EPA's disapproval is upheld, stipulated

penalties shall accrue for such violation from the date on which the initial submission was required, as provided in Section XX (Stipulated Penalties), provided, however, stipulated penalties shall not accrue with respect to a resubmission that is disapproved or modified by EPA, during the period, if any, beginning on the thirty-first (31st) day after EPA's receipt of such resubmission until the date that EPA notifies Respondents of any disapproval or modification.

41. All plans, reports and other items required to be submitted to the EPA under this Settlement Agreement shall, upon approval by the EPA, be enforceable under this Settlement Agreement. In the event the EPA approves a portion of a plan, report or other item required to be submitted to the EPA under this Settlement Agreement, the approved portion shall be enforceable under this Settlement Agreement.

XI. RECORD RETENTION, DOCUMENTATION, AND AVAILABILITY OF INFORMATION

42. Respondents shall preserve all documents and information relating to Work performed under this Settlement Agreement for ten (10) years following completion of the Work required by this Settlement Agreement. Drafts or other documents that are subsequently prepared in final form need not be preserved in addition to the final document. If, during such ten (10) year period, the EPA shall request, in writing, a review of, or copies of, any such documentation or information, Respondents shall provide the original or copies of such non-privileged documents or information to the EPA within the time frame specified in the request.

43. Respondents may assert a business confidentiality claim pursuant to 40 C.F.R. § 2.203(b) with respect to part or all of any information they submit to the EPA pursuant to this Settlement Agreement, provided such claim is allowed by Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). Analytical and other data specified in Section 104(e)(7)(F) of CERCLA

shall not be claimed as confidential pursuant to CERCLA by the Respondents. The EPA shall disclose information covered by a business confidentiality claim only to the extent permitted by, and by means of the procedures set forth in, 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, the EPA may make it available to the public without further notice to Respondents. The EPA may, at any time, challenge claims of privilege through negotiations or otherwise as provided by law or the Federal Rules of Civil Procedure.

XII. OFF-SITE SHIPMENTS

44. Before shipping any hazardous waste, hazardous substances, pollutants, or contaminants from the Site to a Subtitle C facility, Respondents shall obtain from the proposed receiving facility and submit to EPA a written certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3) and the Off-Site Rule, 40 C.F.R. § 300.440(b).

45. If Respondents learn that any Subtitle C facility to which Respondents ship any hazardous waste, hazardous substances, pollutants, or contaminants from the Site at any time fails to comply with the requirements of the Off-Site Rule or other requirements of CERCLA:

a. Respondents shall notify EPA within forty-eight (48) hours that such facility is no longer in compliance with the Off-Site rule or other requirements of CERCLA;

b. Respondents shall provide EPA within seven (7) days the name or names of an alternative Subtitle C facility or facilities to receive shipments from the Site;

c. The EPA shall review and approve or disapprove such alternative Subtitle C facility or facilities and provide notice to Respondents of its decision;

d. Respondents shall contract for disposal with one of the Subtitle C facilities approved by EPA within seven (7) days of receiving notice of EPA's approval or, if EPA does not approve use of any of the facilities submitted by Respondents, Respondents shall provide EPA within seven (7) days of receiving notice of EPA's disapproval, the name or names of an alternative Subtitle C facility or facilities to receive shipments from the Site; and

e. If Respondents comply with the requirements of this Paragraph, Respondents shall not be responsible for any Stipulated Penalties associated with delays caused solely by the non-compliance of the Subtitle C facility, from the time Respondents learn of a Subtitle C facility's non-compliance to the time of contracting with an alternative Subtitle C facility approved by EPA, pursuant to subparagraphs a through d, above.

XIII. COMPLIANCE WITH OTHER LAWS

46. All actions required pursuant to this Settlement Agreement shall be performed in accordance with all applicable local, state, and federal environmental laws and regulations except as provided in CERCLA Section 121(e), 42 U.S.C. § 9621, and 40 C.F.R. § 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all Work required pursuant to this Settlement Agreement shall, to the extent practicable, as determined by the EPA, attain applicable or relevant and appropriate requirements (ARARs) under federal environmental, state environmental, or facility siting laws. All ARARs shall be identified in the EE/CA.

XIV. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

47. If any incident, or change in Site conditions, resulting from the activities conducted pursuant to this Settlement Agreement 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, Respondents shall take all appropriate action, in accordance with all

applicable provisions of CERCLA, the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §§ 11001-11050 ("EPCRA") and the Health and Safety Plan to abate or minimize such release or endangerment caused or threatened by the release. Respondents shall also promptly notify the EPA's Project Coordinator at (913) 551-7808, or, in the event of his unavailability, shall notify the Regional Duty Officer, Emergency Response and Removal Branch, EPA Region 7, (913) 281-0991, 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 XVII (Reimbursement of Costs).

48. In addition, in the event of any release of a hazardous substance above a reportable quantity from the Site resulting from the activities conducted pursuant to this Settlement Agreement, Respondents shall immediately notify the National Response Center at (800) 424-8802. Respondents shall submit a written report to the EPA within seven (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 any applicable requirements set forth in EPCRA. Notwithstanding the foregoing, nothing in this paragraph is intended to create liability as to such release for any Respondent if such liability would not otherwise exist under applicable federal, state or local laws, rules and ordinances.

XV. AUTHORITY OF EPA'S PROJECT COORDINATOR

49. The EPA's Project Coordinator shall be responsible for overseeing the implementation of this Settlement Agreement. The EPA's Project Coordinator shall have the authority vested in a Remedial Project Manager ("RPM") and an On-Scene Coordinator ("OSC")

by the NCP, including the authority to halt, conduct, or direct any Work required by this Settlement Agreement, or to direct any other response action undertaken by the EPA or Respondents at the Site. Absence of the EPA's Project Coordinator from the Site shall not be cause for stoppage of Work unless specifically directed by the EPA's Project Coordinator.

XVI. ADDITIONAL WORK

50. The EPA may determine that sampling, analysis, or reporting, or other tasks in addition to those specifically set forth in the attached SOW or this Settlement Agreement are necessary to satisfy the purposes of this Settlement Agreement. If the EPA so determines, it will advise Respondents in writing of the nature of the additional tasks and the basis for the EPA's determination that the additional work is necessary. Respondents may request a meeting with the EPA to discuss the additional work within seven (7) days of their receipt of the EPA's written determination. Within thirty (30) days of receipt of the EPA's written determination, Respondents shall advise the EPA in writing of either their agreement to perform the additional tasks requested, or their disagreement with EPA's decision to require the additional tasks and the reasons for such refusal.

51. If Respondents disagree with EPA's decision to undertake the additional work, Respondents shall initiate the dispute resolution process set forth in Section XVIII of this Settlement Agreement. The time period for initiation of dispute resolution, as set forth in paragraph 58 hereof, shall run from the date Respondents advise EPA in writing of its disagreement with EPA's decision to carry out the additional work.

52. If Respondents agree to perform the additional tasks requested, within the time specified in the determination from the EPA, Respondents shall submit a Supplemental Work Plan which shall be subject to the EPA's approval as set forth in Section X (Submissions

Requiring EPA Approval). Upon approval of the Supplemental Work Plan by the EPA, Respondents shall implement the Supplemental Work Plan.

53. All additional Work performed by Respondents under this Section shall be performed in a manner consistent with this Settlement Agreement.

XVII. REIMBURSEMENT OF COSTS

54. Payment 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 reconciled regional itemized cost summary which shall serve as the basis for the payment demand. The EPA's reconciled regional itemized cost summary shall include the following information:

(1) The EPA's payroll costs, including the names of the individuals charging time to the Site, the pay periods in which each individual charged time to the Site, the number of hours charged by each individual per pay period, and the payroll costs per individual per pay period;

(2) The EPA's travel costs including the names of the individuals charging travel costs to this Site and the date and amount of each such travel claim charged to the Site;

(3) The EPA's indirect costs charged for regional staff time, including the individual's name, pay period, the number of hours per pay period, the indirect cost rate, and total and direct costs;

(4) Contract costs, including for each such payment the amount paid, the date paid, and invoice number; and

(5) The amount and date paid for other costs.

Additional cost documentation will not be provided as a matter of course, but may be provided if a dispute arises about a particular cost item.

b. Respondents shall make all payments required by this Paragraph within forty-five (45) days of receipt of the reconciled regional itemized costs summary from the EPA, by a cashier's or certified check or checks made payable to the "EPA Hazardous Substances Superfund", referencing the payer's name and address, the EPA Site Identification Number (A72R), and the docket number of this Settlement Agreement. Respondents shall send the check(s) to:

U.S. EPA Region 7
P.O. Box 371099M
Pittsburgh, PA 15251

c. At the time of payment, Respondents shall send notice that payment has been made to Kevin Larson, EPA's Project Coordinator, EPA Region 7, 901 North 5th Street, Kansas City, Kansas 66101.

d. The total amount to be paid by Respondents pursuant to this paragraph shall be deposited in the Beatrice FMGP 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 transferred by the EPA to the EPA Hazardous Substance Superfund.

55. In the event that the payments for Future Response Costs are not made within forty-five (45) days of Respondents' receipt of a bill, Respondents shall pay Interest on the unpaid balance. The Interest on Future Response Costs shall begin to accrue forty-five (45) days after Respondents' receipt of the bill and shall continue to accrue until the date of payment. 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, payment of stipulated penalties pursuant to Section XX.

56. Respondents may dispute, in accordance with Section XVIII (Dispute Resolution), all or part of a bill for Future Response Costs submitted under this Settlement Agreement. Any such dispute shall be limited to accounting errors or inconsistencies with the NCP or this Settlement Agreement.

57. If any dispute over costs is resolved before payment is due, the amount due will be adjusted as necessary. If the dispute is not resolved before payment is due, Respondents, on or before the due date, shall pay (a) the full amount of the uncontested costs into the Hazardous Substances Superfund account specified in paragraph 53(b), above, and (b) the full amount of all contested costs into an interest bearing escrow bank account established by Respondents. Respondents shall simultaneously transmit a copy of each check to the EPA's Project Coordinator. Respondents shall ensure that the prevailing party in the dispute shall receive the amount upon which they prevailed from the escrowed funds, with interest, within thirty (30) days after the dispute is resolved.

XVIII. DISPUTE RESOLUTION

58. If Respondents disagree, in whole or in part, with any EPA disapproval or other decision or directive made by the EPA pursuant to this Settlement Agreement, they shall notify the EPA in writing of their objections and the bases for such objections, within fifteen (15) business days of receipt of the EPA's disapproval, decision, or directive. Such notice shall define the dispute, and state the basis of Respondents' objections. The EPA and Respondents shall then have thirty (30) working days from the EPA's receipt of Respondents' objections or such longer

period as agreed to by the Parties to attempt to resolve the dispute. If agreement is reached, the resolution shall be reduced to writing, signed by each party, and incorporated into this Settlement Agreement. If the parties are unable to reach agreement within this thirty (30) working-day period or such other period of time as agreed by the Parties, the matter shall be referred to the Superfund Division Director. The Superfund Division Director shall then decide the matter and provide a written statement of his or her decision and the basis therefore to both parties, which shall be incorporated into this Settlement Agreement; provided, however, the Respondents do not waive and reserve all rights available by law relating to Work performed as a result of EPA's decision on the dispute.

59. The invocation of the dispute resolution process under this Section, or a claim of force majeure, shall not stay the accrual of stipulated penalties, or extend or postpone any deadline or obligations of Respondents, including the obligation to pay stipulated penalties, under this Settlement Agreement with respect to the disputed issue, unless EPA otherwise agrees in writing. Stipulated penalties shall accrue from the first day of non-compliance by Respondents, and shall continue to accrue during dispute resolution procedures until twenty (20) days after Respondents request a determination by the Superfund Division Director pursuant to Paragraph 57 herein, after which date stipulated penalties shall stop accruing until issuance by the Superfund Division Director of a decision resolving the dispute. Stipulated penalties shall continue to accrue during the dispute resolution process for all matters unrelated to the contested matters at issue in the dispute resolution process. Notwithstanding any other provision of this Settlement Agreement, the EPA may, in its discretion, waive any portion of stipulated damages that have occurred pursuant to this Settlement Agreement.

60. Notwithstanding any other provision of this Settlement Agreement, no action or decision by the EPA, including without limitation, decisions of the Superfund Division Director pursuant to this Settlement Agreement, shall constitute final EPA action giving rise to any rights to judicial review prior to the EPA's initiation of judicial action to compel Respondents' compliance with the requirements of this Settlement Agreement.

XIX. FORCE MAJEURE

61. Respondents agree to perform all requirements under this Settlement Agreement within the time limits established under this Settlement Agreement, unless the performance is prevented or delayed by events which constitute a force majeure. For purposes of this Settlement Agreement, a force majeure is defined as any event arising from causes beyond the control of Respondents or their consultants, contractors, subcontractors or agents, that delays or prevents performance in accordance with the schedule required by this Settlement Agreement, despite Respondents' best efforts to fulfill the obligation. Force majeure does not include financial inability to complete the Work, unanticipated or increased cost of performance, normal precipitation events or changed economic circumstances. Failure to obtain federal, state, or local permits shall constitute a force majeure if Respondents have made a timely and complete application for such permits.

62. Respondents shall notify EPA orally within forty-eight (48) hours, and shall also notify the EPA in writing within five (5) days after they become aware of events that constitute a force majeure. Such notice shall identify the event causing the delay or anticipated delay; provide an estimate of the anticipated length of delay, including necessary demobilization and remobilization; state a description of the cause of the delay; state the measures taken or to be taken to minimize delay; and, state the estimated timetable for implementation of these measures.

Such notice shall be reviewed by the EPA and the EPA will determine whether delay has been or will be caused by a force majeure.

63. Respondents shall exercise reasonable efforts to avoid and minimize any delay caused by a force majeure, as defined herein. Failure to comply with the notice provision of this Section may constitute a waiver of Respondents' right to assert force majeure.

64. If the EPA determines that a delay in performance of a requirement under this Settlement Agreement has been or will be caused by a force majeure, the time period for performance of that portion of Work affected may be extended for a period of time equal to the delay resulting from such circumstances (taking into account the length of the delay and the requirements for remobilization). This schedule extension shall be accomplished through written modification of the Work Plan pursuant to Section XXIX (Modifications). Such an extension does not alter the schedule for performance or completion of other tasks required by the attached SOW or Work Plan unaffected by the force majeure event. In the event the EPA and Respondents cannot agree that any delay or failure has been or will be caused by a force majeure, or if there is no agreement on the length of the extension, such dispute shall be resolved in accordance with the provisions of Section XVIII (Dispute Resolution).

XX. STIPULATED PENALTIES

65. The stipulated penalties set forth below shall accrue and may be assessed against Respondents at any time Respondents fail to timely and adequately comply with any requirement of this Settlement Agreement, unless a force majeure has occurred, as defined in Section XIX (Force Majeure). Compliance by Respondents with this Settlement Agreement shall include completion of an activity under this Settlement Agreement or a plan approved under this

Settlement Agreement in a manner acceptable to the EPA, and within the specified time schedules in and approved under this Settlement Agreement.

66. The stipulated penalties for violations relating to this Settlement Agreement shall accrue as follows:

a. For failure to submit the Work Plan; draft site characterization and baseline risk assessment sections of the EE/CA report; or the EE/CA Report, as required in Section VIII (Work to Be Performed) above, within the time period required by this Settlement Agreement and the SOW:

(1) $150 per day for the first through seventh days of noncompliance;

(2) $250 per day for the eighth through the thirtieth days of noncompliance and;

(3) $500 per day for the thirty-first day and each succeeding day of noncompliance thereafter.

b. For failure to submit monthly progress reports as required in Section VIII (Work To Be Performed) above, within the time period required by this Settlement Agreement and the SOW:

(1) $50 per day for the first through seventh days of noncompliance;

(2) $100 per day for the eighth through the thirtieth days of noncompliance and;

(3) $150 per day for the thirty-first day and each succeeding day of noncompliance thereafter.

c. For any other violation of this Settlement Agreement, or for material failure to properly perform Work required by this Settlement Agreement or material failure to perform Work within the time frames contained in and approved under this Settlement Agreement, other

than submission of plans, reports, or other documents which Respondents are required to submit to the EPA pursuant to this Settlement Agreement:

(1) $150 per day for the first through seventh days of noncompliance;

(2) $250 per day for the eighth through the thirtieth days of noncompliance; and

(3) $500 per day for the thirty-first day and each succeeding day of noncompliance thereafter.

67. Except as provided in Section XVIII (Dispute Resolution) and Section XIX (Force Majeure), all penalties shall begin to accrue on the date that complete performance is due or a violation or non-compliance occurs and shall continue to accrue through the final day of correction of the noncompliance. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement. The EPA may waive its right to assess stipulated penalties under this Settlement Agreement.

68. Except as provided in Section XVIII (Dispute Resolution) and Section XIX (Force Majeure), all penalties owing under this Section shall be due within forty-five (45) days of receipt by Respondents of written demand by the EPA for payment thereof. Interest shall begin to accrue on the unpaid balance at the end of this forty-five (45) day period. Interest will accrue on the unpaid balance until such penalties and Interest has been paid. All penalties shall be paid by certified or Cashier's check made payable to the Treasurer of the United States, and shall be remitted to:

U.S. EPA Region 7
P.O. Box 371099M
Pittsburgh, PA 15251

All payments shall reference the EPA Docket Number which appears on the face of this Settlement Agreement and the Site name and identification number (A72R), and shall indicate that they are in payment of stipulated penalties. A copy of the transmittal of payment shall be sent to the EPA's Project Coordinator.

69. Except for those violations for which stipulated penalties have been assessed by the EPA and paid by Respondents, the stipulated penalties set forth in this Section do not preclude the EPA from pursuing any other remedies or sanctions which may be available to the EPA by reason of Respondents' failure to comply with any of the requirements of this Settlement Agreement. Payment of said penalties shall not relieve Respondents of the responsibility to comply with this Settlement Agreement.

XXI. RESERVATION OF RIGHTS

70. Except as provided in this Settlement Agreement, and subject to Paragraph 81, nothing herein shall limit the power and authority of the 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, at or from the Site. Further, except as provided in this Settlement Agreement and subject to Paragraph 81, nothing herein shall prevent the EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, including the right to seek injunctive relief and/or the imposition of statutory penalties and/or punitive damages. The EPA also further reserves the right to take any legal or equitable action as it deems appropriate and necessary, or to require Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law. The EPA reserves the right to bring an action against Respondents under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of any response costs incurred by the

United States related to this Settlement Agreement or the Site and not reimbursed by Respondents.

71. Except as expressly provided in this Settlement Agreement, Respondents reserve all rights, causes of action, defenses and claims they have with respect to liability for releases or threatened releases of hazardous substances from the Site. Respondent City of Beatrice shall not be deemed to have waived or compromise any claims or causes of action which it maintains against Kirkham Michal and Associate Inc. or Acquila Inc. by operation or implication of this agreement, all rights being expressed reserved and preserved.

XXII. OTHER CLAIMS

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

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

74. Neither the United States nor the EPA shall be a party or be held out as a party to any contract entered into by the Respondents or their agents, successors, representatives, contractors, or assigns in carrying out activities pursuant to this Settlement Agreement. Neither the Respondents, nor their agents, successors, representatives, contractors nor assigns shall be considered an agent of the United States.

75. Nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, RCRA or other statutes, or

the common law, including, but not limited to, any claims of the United States for costs, damages and interest under Sections 104 and 107(a) of CERCLA, 42 U.S.C. §§ 9604 and 9607(a).

76. This Settlement Agreement does not constitute a preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2). The Respondents agree not to sue the United States for, and waive any claim to payment under Sections 106(b), 111, and 112 of CERCLA, 42 U.S.C. §§ 9606(b), 9611, and 9612, against the United States or the Hazardous Substances Superfund arising out of any activity performed under this Consent Order.

77. No action or decision by the 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 PROTECTION AND RIGHTS

78. With regard to claims for contribution against Respondents for matters addressed in this Settlement Agreement, the parties hereto 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 the Respondents are entitled, as of the Effective Date, to protection from such contribution actions or claims to the extent provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2). For purposes of this Settlement Agreement, the "matters addressed" in this Settlement Agreement are the Work and Future Response Costs. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(3)(B) of CERCLA, 9613(f)(3)(B), pursuant to which Respondents have resolved their liability to the United States for the Work, and Future Response Costs.

79. Nothing in this Settlement Agreement precludes the United States or Respondents from asserting any claims, causes of action or demands against any persons who are not parties to this Settlement Agreement for indemnification, contribution, or cost recovery.

80. Respondents agree that with respect to any suit or claim for contribution brought against them for matters covered by this Settlement Agreement, Respondents will exercise reasonable efforts to notify the EPA of the institution of the suit or claim within thirty (30) days of service of any such suit or claim.

XXIV. COVENANT NOT TO SUE BY EPA

81. 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, upon issuance of the EPA notice referred to in Section XXX (Notice of Completion), the EPA covenants not to sue Respondents or to take administrative action against Respondents pursuant to Sections 104 and 107(a) of CERCLA 42 U.S.C. 9604 and 9607(a) for the Work and for the recovery of Future Response Costs incurred by the United States under this Settlement Agreement. This covenant not to sue shall take effect upon the issuance of the EPA notice referred to in Section XXX (Notice of Completion) and is conditioned upon the complete and satisfactory performance by Respondents of all obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XVII.

XXV. COVENANT NOT TO SUE BY RESPONDENTS

82. 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 and 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 response actions at or in connection with the Work, including any claim under the United States Constitution, the Nebraska 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. 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 Paragraph 71, 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.

83. Nothing in the 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).

XXVI. INDEMNIFICATION

84. 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 otherwise wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors or subcontractors, in carrying out activities pursuant to this Settlement Agreement, 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 contractors shall be considered an agent of the United States.

85. Respondents waive all claims against the United States for damages or reimbursement 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, including, but not limited to, claims on account of construction delays. 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, including, but not limited to, claims on account of construction delays.

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

XXVII. INSURANCE

87. At least seven (7) 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 ($1,000,000.00) per incident, two million dollars ($2,000,000.00), aggregate limit. Within the same time period, Respondents shall provide EPA with certificates of insurance. 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 of 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 that is no maintained by such contractor or subcontractor.

XXVIII. FINANCIAL ASSURANCE

88. Within thirty (30) days of the Effective Date, Respondents shall establish and maintain financial security in the amount of $200,000 in one or more of the following forms:

a. A surety bond guaranteeing performance of the Work;

b. One or more irrevocable letters of credit equaling the total estimated cost of the Work;

c. A trust fund;

d. A guarantee to perform the Work by one or more parent corporations or subsidiaries, or by one or more unrelated corporations that have a substantial business relationship with at least one of the Respondents; or

e. A demonstration that one or more of the Respondents satisfy the requirements of 40 C.F.R. Part 264.143(f).

89. If Respondents seek to demonstrate the ability to complete the Work through a guarantee by a third party pursuant to Paragraph 88(a) of this Section, Respondents shall demonstrate that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f). If Respondents seek to demonstrate their ability to complete the Work by means of the financial test or the corporate guarantee pursuant to Paragraph 88(d) or (e) of this Section, they shall resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date. In the event that EPA determines at any time that the financial assurances provided pursuant to this Section are inadequate, Respondents shall, within 30 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 Paragraph 88 of this Section. Respondents' inability to demonstrate financial ability to complete the Work shall not excuse performance of any activities required under this Settlement Agreement.

90. 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 87 of this Section, Respondents may, on any anniversary date of the Effective Date, 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 upon approval by EPA. In the event of a dispute, Respondents may reduce the amount of the security in accordance with the written decision resolving the dispute.

91. Respondents may change the form of financial assurance provided under this Section at any time, upon notice to and approval by EPA, provided 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.

XXIX. MODIFICATIONS

92. This Settlement Agreement may be modified by mutual agreement of the Respondents and the EPA. Any such amendment shall be in writing and shall be signed by an authorized representative of Respondents and EPA. Unless otherwise provided for in the amendment, the effective date of any such modification shall be the date on which the written agreement or modification is signed by the EPA after signature by the Respondents. All modifications shall be incorporated into and become a part of this Settlement Agreement

93. The Statement of Work, the EE/CA Work Plan, and the schedule for deliverables under this Settlement Agreement may be modified by mutual written consent of the Project Coordinators for the EPA and Respondents.

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

XXX. NOTICE OF COMPLETION

95. When the EPA determines, after the EPA's review of the Final EE/CA Report, that all Work has been fully performed in accordance with this Settlement Agreement, except for certain continuing obligations required by this Settlement Agreement and that all goals and objectives of this Settlement Agreement and the SOW have been satisfied, the EPA will provide

Notice of Completion to the Respondents. If the EPA determines that any Work has not been completed in accordance with this Settlement Agreement, the EPA will notify the Respondents, provide a list of the deficiencies, and require that Respondents modify the Work Plan to correct such deficiencies in accordance with the schedule contained in the EPA's notice. The modified Work Plan shall be subject to approval as specified in Section X (Submissions Requiring EPA Approval). The Respondents shall implement the modified and approved Work Plan and shall submit a modified Final EE/CA Report in accordance with the EPA notice.

XXXI. SEVERABILITY

96. If any judicial or administrative authority issues an order that invalidates any provision of this Settlement Agreement, or finds that Respondents have sufficient cause not to comply with one or more provisions of this Settlement Agreement, then Respondents shall remain bound to comply with all other provisions of this Settlement Agreement.

XXXII. EFFECTIVE DATE

97. This Settlement Agreement shall become effective upon receipt by Respondent Centel of a fully executed and file-stamped copy of this Settlement Agreement, as shown by the date on the certified mail receipts.

XXXIII. SIGNATURE BY PARTIES

98. Each party to this Settlement Agreement shall execute the Settlement Agreement on the signature page by signing the appropriate signature line.

IT IS SO ORDERED AND AGREED.

BY: _____ DATE: 6/27/07
Cecilia Tapia
Director
Superfund Division
Region 7
United States Environmental Protection Agency

For the United States Environmental Protection Agency

BY: _____ DATE: 5/14/07
Barbara Peterson
Assistant Regional Counsel
Region 7

In the Matter of Iowa-Nebraska Light & Power Site
CERCLA Docket No. 07-2006-0159

The representative of Respondents who has signed the signature page certify that he/she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party he/she represents to this document.

For Centel Corporation:

BY: _____ DATE: _____

Name: _____

Title: _____

For the City of Beatrice, Nebraska:

BY: _____ DATE: 6/13/2007

Name: DENNIS M SCHUSTER

Title: MAYOR

In the Matter of Iowa-Nebraska Light & Power Site
CERCLA Docket No. 07-2006-0159

The representative of Respondents who has signed the signature page certify that he/she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party he/she represents to this document.

For Centel Corporation:

BY: _____ DATE: 5/7/2007

Name: Les Meredith

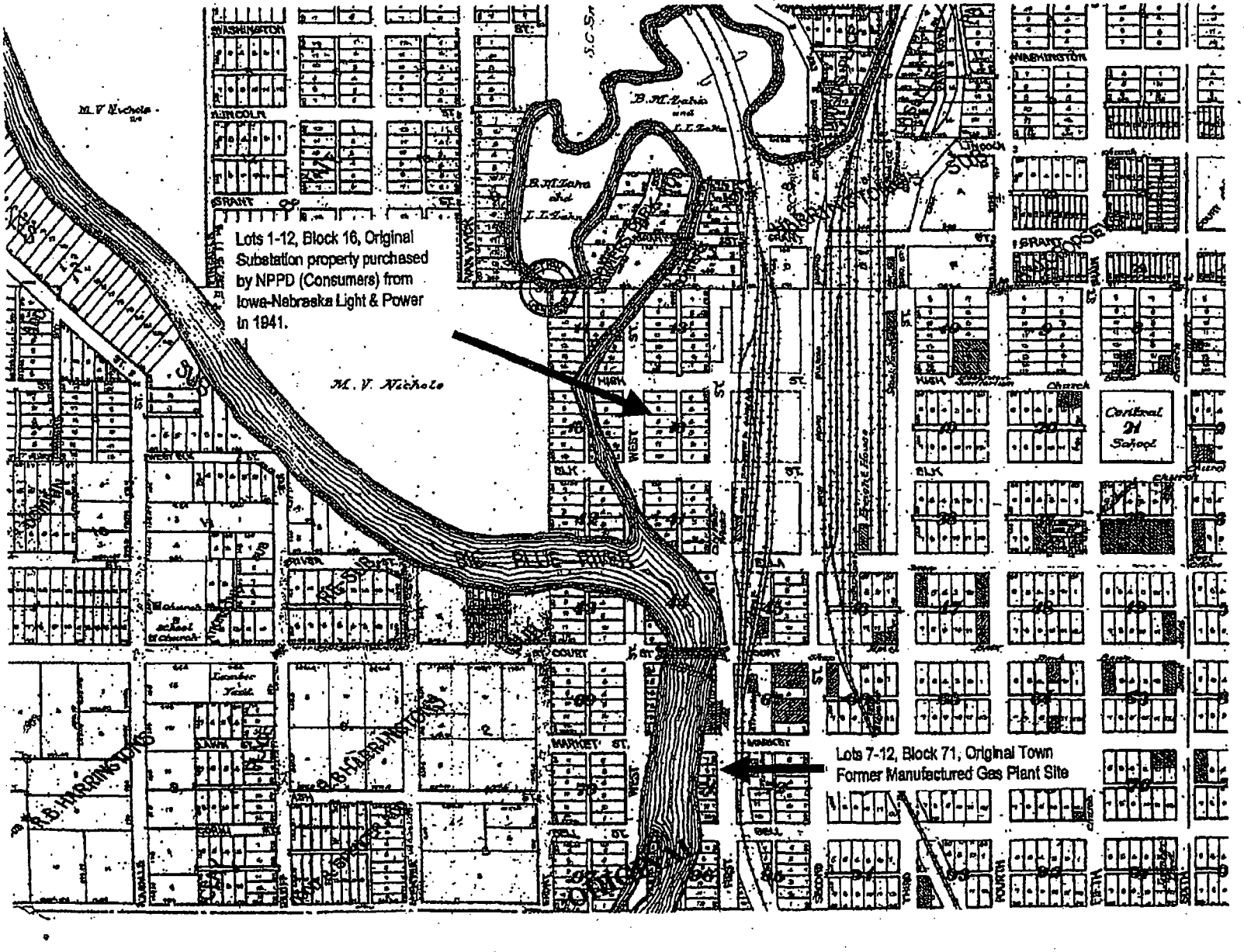
Title: Treasurer

For the City of Beatrice, Nebraska:

BY: _____ DATE: _____

Name: _____

Title: _____


Lots 1-12, Block 16, Original Substation property purchased by NPPD (Consumers) from Iowa-Nebraska Light & Power in 1941.
Lots 7-12, Block 71, Original Town Former Manufactured Gas Plant Site
M. V. Nichols
WASHINGTON
LINCOLN
GRANT
HIGH
WEST
ELK
MARKET ST.
Central H School

Appendix A

APPENDIX B
STATEMENT OF WORK
ENGINEERING EVALUATION/COST ANALYSIS
BEATRICE FORMER MANUFACTURED GAS PLANT (FMGP)

1.0 INTRODUCTION

The activities described in the Statement of Work (SOW) are to be undertaken for the purpose of conducting an Engineering Evaluation/Cost Analysis (EE/CA) to investigate the nature and extent of contamination, assess the potential risk to human health and the environment presented by such contamination, and develop and evaluate potential removal alternatives at the Beatrice Former Manufactured Gas Plant (FMGP) Site (the"Site").

Respondents shall conduct this investigation and shall produce an EE/CA Report that is in accordance with this SOW, the Guidance on Conducting Non-Time Critical Removal Actions Under CERCLA (EPA/540-R-93-057, August 1993), and any other guidance that EPA uses in conducting an EE/CA, as well as any additional requirements in the Administrative Settlement Agreement and Order on Consent, CERCLA Docket No. 07-2006-0109 ("Settlement Agreement"). The Non-Time Critical Removal Guidance describes the EE/CA report format and the required report content.

This SOW imposes only investigative responsibilities on Respondent and does not address responsibilities relating to removal or remediation. The exercise or performance by Respondent of any responsibilities imposed by this SOW shall not constitute, nor be interpreted as, an acceptance of or admission by Respondent of any responsibility to treat, remediate, or remove any non-manufactured gas plant contaminants, contamination, hazardous substances, and waste found at the Site. By entering into this SOW, Respondents have not waived any defenses they have or may claim to have, in any action brought, or with respect to any claims made, against Respondents concerning the treatment, remediation, or removal of any non-manufactured gas plant contaminant, contamination, hazardous substances, or waste found at the Site.

2.0 TASK I - PROJECT PLANNING

Respondents shall gather and evaluate the existing site information, develop a conceptual understanding of the potential site risks, and develop an EE/CA Work Plan.

2.1 Site Background and Conceptual Understanding

Respondents shall compile and evaluate available background information to assist in planning the scope of the EE/CA. This shall include information and analytical data obtained from any previous investigations conducted at the Site. Information concerning physical characteristics, waste sources, types and concentrations of contaminants, affected media, rates of migration, migration pathways, exposure

pathways, and potential receptors shall be used to develop a conceptual understanding of the Site to evaluate potential risks to human health and the environment. A conceptual understanding of the potential site risks shall be utilized to develop the scope and objectives of the EE/CA.

2.2 EE/CA Work Plan, QAPP, HASP

Respondents shall submit an EE/CA Work Plan to EPA. The EE/CA Work Plan shall include a Quality Assurance Project Plan (QAPP), and a Site Health and Safety Plan (HASP). The EE/CA Work Plan must be approved by EPA prior to the initiation of field activities.

2.2.1 EE/CA Work Plan

The EE/CA Work Plan shall include a comprehensive description of the work to be performed, including the methodologies to be utilized, as well as a corresponding schedule for completion. In addition, the EE/CA Work Plan shall include the rationale for performing the activities.

The EE/CA Work Plan shall state the objectives of the EE/CA. It shall include the following: (1) a background summary setting forth a description of the Site including the geographic location and site management; (2) to the extent possible, a description of physiography, hydrology, geology, and demographics, as well as ecological, cultural and natural resource features; (3) a synopsis of the history and a description of previous activities that have been conducted by local, state, Federal, or private parties; and (4) a summary of the existing data in terms of physical and chemical characteristics of the contaminants identified, and their distribution among the environmental media in the vicinity of the Site.

The EE/CA Work Plan shall include specific sampling objectives, sample location and frequency, sampling equipment and procedures, and sample handling and analysis. Sampling and analysis shall be conducted in accordance with technically acceptable protocols that meet data quality objectives ("DQOs"), which shall be stated in the QAPP.

The EE/CA Work Plan shall include the preparation of an appropriate document setting forth a preliminary identification of removal alternatives. The EE/CA Work Plan shall present the following: (1) a detailed description of the tasks to be performed; (2) information needed from each task; (3) a description of the work products that shall be submitted to EPA, as set forth in the remainder of this SOW; (4) a schedule; (5) project management plan; and (6) data management plan addressing monthly reports, meetings and presentations.

The EE/CA Work Plan shall include the preparation of an appropriate document setting forth a preliminary identification of potential Applicable, or Relevant and Appropriate Requirements (ARARs) of Federal and States

environmental laws. These potential ARARs will be used to assist in the determination of site characterization needs, the refinement of removal action alternatives and ARARs associated with particular actions. ARAR identification shall continue as site conditions, contaminants, and removal action alternatives are better defined.

Because of the iterative nature of the EE/CA, additional data requirements and analyses may be identified throughout the process. If any additional data requirements are identified, the Respondents shall inform and propose the additional data requirements in a technical memorandum to EPA for review and approval. Respondents are responsible for fulfilling additional data and analysis needs identified by EPA consistent with the general scope and objectives of this EE/CA.

2.2.2 Quality Assurance Project Plan

A Quality Assurance Project Plan ("QAPP") shall be prepared and submitted to EPA that describes the project objectives and organization, functional activities, and QA/QC protocols that shall be used to achieve the project objectives. The QAPP shall address general sampling procedures, sample custody, analytical procedures including appropriate detection limits, and data reduction, validation, reporting and personnel qualifications.

The Respondent shall demonstrate in advance, to EPA's satisfaction, that each laboratory it uses is qualified to conduct the proposed work. The laboratory shall have and follow a QA program. If a laboratory not in the Contract Laboratory Program ("CLP") is selected, methods consistent with CLP methods that would be used for the purposes proposed and quality assurance and quality control ("QA/QC") procedures approved by EPA shall be used.

2.2.3 Site Health and Safety Plan

A Site Health and Safety Plan ("HASP") shall be prepared in accordance with OSHA regulations and protocols and submitted to EPA for review. The HASP shall include a description of the potential physical and chemical risks present; a description of monitoring and personal protective equipment; medical monitoring; air monitoring; and facility control. Field personnel shall conform to regulatory training requirements as applicable.

3.0 TASK II - SITE CHARACTERIZATION

The overall objective of site characterization is to describe all areas of the Site that may pose a threat to human health or the environment. Respondents shall determine the Site's physiography, geology, and hydrology. Surface and subsurface pathways of migration shall be defined. Respondents shall identify the sources of contamination within the Site and define the nature, extent, and volume of the sources

of contamination at the Site, including their physical and chemical character as well as their concentrations at incremental locations to background in the affected media. Respondents shall also investigate the extent of migration of contamination as well as its volume and any changes in its physical or chemical characteristics, to provide for a comprehensive understanding of the nature and extent of contamination at the Site. Using this information, contamination fate and transport is then determined and projected.

During this phase of the EE/CA, the EE/CA Work Plan, QAPP, and HASP are implemented. Field data are collected and analyzed to provide the information required to accomplish the objectives of the study.

3.1 Field Investigation

Field investigation includes the gathering of data to define site characteristics, sources of contamination, and the nature and extent of contamination at the Site. These activities shall be performed by Respondents in accordance with the EE/CA Work Plan. This shall include performance of the activities as discussed in the following sections.

3.1.1 Investigate and Define Site Physical Characteristics

Respondents shall collect data on Site characteristics and its surrounding areas including the physiography, geology, hydrology, and specific physical characteristics identified in the EE/CA Work Plan. This information shall be ascertained through a combination of physical measurements, observations, and sampling efforts and shall be utilized to define potential transport pathways and human and ecological receptor populations. In defining the Site's physical characteristics, Respondents shall also obtain sufficient engineering data (such as pumping characteristics) for the projection of contaminant fate and transport, and identification and analysis of removal action alternatives, including information to assess treatment technologies.

The demographics of the region surrounding the Site shall be evaluated, updated, and expanded, as necessary to meet the project objectives and to provide an appropriate and adequate understanding of the following issues:

- Land use and population in the vicinity of the Site;
- The ecological setting of the Site and surrounding vicinity; and
- Identification and evaluation of natural resources, critical habitats and endangered species in the vicinity of the Site that are or may be injured by on-site and off-site contamination.

3.1.2 Define Sources of Contamination

Respondents shall locate the source(s) of contamination within the Site, provided, however, that Respondent shall not be required to locate, trace or investigate the off-Site origin or source of any contaminants, contamination, hazardous substances, and waste found at the Site other than those attributed to the operation of a manufactured gas plant at the Site. For each location, the horizontal and vertical extent of contamination shall be determined by sampling site media at incremental depths at appropriate sampling locations. The physical characteristics and chemical constituents and concentrations shall be determined for all known and discovered sources of contamination within the Site. Respondents shall conduct sufficient sampling to define the boundaries of the contaminant sources to the level established in the QAPP. Defining the source of contamination shall include: analysis of the potential for contaminant release; contaminant mobility and persistence; and, the characteristics necessary for evaluating removal actions and treatment technologies.

The following items shall be addressed to define the potential sources of impact from the Site:

- Evaluation of Site disposal practices to determine the types of materials disposed, the location of disposal activities, and the period of disposal. This may be accomplished by conducting interviews with past employees, a critical review of aerial photographs and subsurface investigations.

- Definition of the horizontal and vertical extent of contaminated waste, and impacted soils, sediments, surface water, and groundwater.

- Characterization of all site contaminant source areas including relief holders, tanks, drip pits, tar separators, tar wells, and any additional areas or structures that may be source areas for site contamination.

- The design and implementation of sampling and monitoring programs to define the nature and extent of light non-aqueous phase liquids ("LNAPL") and dense non-aqueous liquid phase liquids ("DNAPL") at and/or from the Site.

- Identification of potential mechanisms of release, and/or transport and potential human and environmental receptors.

3.1.3 Physical and Chemical Characterization

The physical framework and chemical quality of the soil and bedrock at and beneath the Site shall be determined. Characterization activities shall include, but not be limited to, the following items:

- Characterization of the lithology and stratigraphy of the soils and bedrock

at and beneath the Site.

- Soil characteristics (e.g.: soil type, holding capacity, biological activity, engineering properties, solubility, ion speciation, adsorption coefficients, leachability, mineral partition coefficients, cation exchange capacity, and chemical and sorptive properties) shall be evaluated as such relate to potential occurrence and migration of any contaminants.

- The physical characterization of the unconsolidated profile shall include an evaluation of unit morphology, unit thickness, areal extent and local lateral facies changes, and hydraulic properties.

- Bedrock characteristics (e.g.: bedrock stratigraphy, bedrock topography, karstic features, geologic features, structural features, mineralogy, cementation, porosity, permeability and other hydraulic properties) shall be evaluated as such relate to potential occurrence and migration of any contaminants, provided, however, that in view of the potential depth of the bedrock at the Site, rock-coring of the bedrock shall not be required unless preliminary investigations indicate the likelihood that the bedrock is contaminated.

- Determination of the horizontal and vertical extent of the contaminants. Initial chemical characterization samples shall be analyzed for volatile and semi-volatile organic compounds, metals, and cyanides. Based on the results of initial sampling, the analyte list may be reduced to a more focused suite of chemicals.

- Determination of contaminant migration pathways and the persistence of the contaminants and related impacts.

- Determination of the extent of leachate migration in soil and bedrock adjacent to potential sources.

3.1.4 Hydrogeologic Framework and Groundwater Contamination

The hydrogeologic framework and the extent of potential groundwater impact associated with the contaminants in or originating from the Site shall be characterized. Characterization activities shall address, but not be limited to, the following:

- Determination of the nature of groundwater occurrence and flow beneath and in the vicinity of the Site which may include collection of monthly water levels, performance of aquifer testing, water balance calculations,

evaluation of seasonal fluctuation in groundwater levels, seasonal gradient, flow rates and directions, transient gradients and impact to nearby surface water as such relate to potential occurrence and migration of any contaminants.

- Determination of the horizontal and vertical extent of the contaminants. Initial chemical characterization samples shall be analyzed for volatile and semi-volatile organic compounds, metals, and cyanides. Based on the results of initial sampling, the analyte list may be reduced to a more focused suite of chemicals.

- Determination of contaminant migration pathways and the persistence of the contaminants and related impacts.

- Determination of seasonal variations on groundwater characteristics.

- Determination of groundwater flow conditions at and adjacent to the Site to include, but not limited to, the analysis of hydrologic relationships between the Site and any surface water areas that could be impacted.

3.1.5 Surface Water and Sediment Condition

The hydrologic framework and condition of nearby surface water and sediment associated with the contaminants in or originating from the Site shall be characterized. Characterization activities shall include, but not be limited to, the following items:

- Collection of climatic and river stage data.

- Determination of surface drainage patterns.

- Determination of the horizontal and vertical extent of potential surface water and sediment impact and general surface water quality which shall include an evaluation of Site impact on the Blue River. Initial chemical characterization samples shall be analyzed for volatile and semi-volatile compounds, metals, and cyanides. Based on the results of initial sampling, the analyte list may be reduced to a more focused suite of chemicals.

- Determination of potential migration pathways including sewers and other man-made subsurface structures and the persistence of the contaminants and related impacts.

- Determination fo the seasonal variations in subsurface water chemistry.

3.1.6 Describe the Nature and Extent of Contamination

Respondents shall gather information to describe the nature and extent of contamination as a final step during the field investigation. To describe the nature and extent of contamination, Respondents shall utilize the information on Site physical and biological characteristics, sources of contamination, contaminant migration, and volume and toxicity of contaminated materials. Respondents shall then implement an iterative monitoring program and any study program identified in the EE/CA Work Plan such that by using analytical techniques sufficient to detect and quantify the concentration of contaminants, the migration of contaminants through the various media at the Site can also be determined. In addition, Respondents shall gather data for calculations of contaminant fate and transport. This process is continued until the horizontal and vertical extent of contamination are known to the level of contamination established in the QAPP. Respondents will use the information on the nature and extent of contamination to determine the level of risk presented at the Site. Respondents shall use this information to help to determine aspects of the appropriate removal action alternatives to be evaluated.

3.2 Data Analyses and Evaluation of Site Characteristics

Respondents shall analyze and evaluate the data to describe: (1) Site physical characteristics, (2) contaminant source characteristics, (3) nature and extent of contamination and (4) contaminant fate and transport. Results of the site physical characteristics, source characteristics, and extent of contamination analyses shall be utilized to evaluate contaminant fate and transport. The evaluation shall include the actual and potential magnitude of releases from the sources, and horizontal and vertical spread of contamination as well as mobility and persistence of contaminants. Where modeling is appropriate, such models shall be identified to EPA in a technical memorandum prior to their use. All data and programming, including any proprietary programs, shall be made available to EPA together with a sensitivity analysis. Analysis of data collected for Site characterization shall meet the DQOs developed in the QAPP.

3.3 Data Management Procedures

The quality and validity of field and laboratory data compiled shall be adequately and consistently documented during performance of the EE/CA.

3.3.1 Document Field Activities

Information gathered during site characterization shall be consistently documented and adequately recorded in well maintained field logs and laboratory reports. The method(s) of documentation shall be specified in the EE/CA Work Plan. Field logs shall be utilized to document observations, measurements, and significant events that have occurred during field activities. Laboratory reports shall document sample custody, analytical responsibility, analytical results, adherence to prescribed protocols, nonconformity events,

corrective measures, and/or data deficiencies.

3.3.2 Maintain Sample Management and Tracking

Field reports, sample shipment records, analytical results, and QA/QC reports shall be maintained to ensure that only validated analytical data are reported and utilized in the development and evaluation of remedial alternatives. Analytical results developed under the EE/CA Work Plan shall not be included in any site characterization reports unless accompanied by or cross-referenced to a corresponding QA/QC report. In addition, a data security system shall be established to safeguard chain-of-custody forms and other project records to prevent loss, damage, or alteration of project documentation.

4.0 TASK III - Risk Evaluation

Respondents shall prepare a Baseline Risk Assessment to identity and characterize the actual and potential risks to human health and the environment due to contamination at the site. The Baseline Risk Assessment shall be prepared in accordance with EPA's Risk Assessment Guidance for Superfund consisting of the following two volumes: the Human Health Evaluation Manual, dated October 1989 (OSWER Directive number 9285.7-01a) and the Environmental Evaluation Manual, dated March 1989 (OSWER Directive number 9285.7-02). A draft Baseline Risk Assessment shall be submitted to EPA for review prior to preparation of the EE/CA Report.

5.0 TASK IV - IDENTIFICATION OF REMOVAL ACTION OBJECTIVES

Respondents shall identify the scope, goals, and objectives for the removal action. The removal action objectives shall specify the contaminants and media of interest, exposure pathways and receptors, and an acceptable contaminant level or range or levels.

6.0 TASK V - IDENTIFICATION AND ANALYSIS OF REMOVAL ACTION ALTERNATIVES

Respondents shall identify and assess a limited number of removal action alternatives appropriate for addressing the removal action objectives which are based on the analysis or the nature and extent of contamination. Various treatment technologies shall be considered and analyzed for their short- and long-term effectiveness, implementability, and cost.

6.1 Treatment Technologies

Whenever practicable, the alternatives selection process should consider the CERCLA preference for treatment over conventional containment or land disposal approaches. Based upon the available information, the most qualified technologies that

apply to the media or source of contamination should be discussed.

6.2 Effectiveness

The effectiveness of an alternative refers to its ability to meet the objective within the scope of the removal action. Overall protection of public health and the environment must be discussed. Considered in this discussion are long-term effectiveness and permanence, short-term effectiveness, and compliance with ARARs.

6.3 Implementability

Implementability of an alternative refers to the technical and administrative feasibility of its implementation. Also considered in the discussion of implementability are the availability of services and materials and state and community acceptance of an alternative.

6.4 Cost

Each removal action alternative must be evaluated to determine its projected cost. The present worth of alternatives that last longer than 12 months should be calculated.

7.0 TASK VI - COMPARATIVE ANALYSIS OF REMOVAL ACTION ALTERNATIVES

Respondents shall perform a comparative analysis of the alternatives described in Task V to evaluate the relative performance of each alternative in relation to each of the criteria. The comparative analysis should identify the advantages and disadvantages of each alternative relative to one another so that tradeoffs that would affect remedy selection can be identified.

8.0 TASK VII - INTERIM REPORTING

Prior to the submission of the final EE/CA, Respondent shall submit periodic technical memoranda to EPA for approval setting forth any results, conclusions, and recommendations, as appropriate, regarding the various tasks required under this SOW.

9.0 TASK VIII - ENGINEERING EVALUATION/COST ANALYSIS REPORT

An EE/CA Report shall be prepared and submitted to EPA for review and approval. The EE/CA Report shall contain the elements listed in Exhibit 5 on page 23 of the Guidance on Conducting Non-Time-Critical Removal Actions Under CERCLA, (EPA 540-R-93-0S7, August 1993) where applicable. The EE/CA Report will be subject to the review and approval procedures set out in the Administrative Order on Consent, in particular, Section VII (Work to be Performed), Section XI (Submissions Requiring EPA

Approval) and Section XXVII (Notice of Completion).

10.0 SCHEDULE OF SUBMITTALS

Submittal	Due Date
Monthly Progress Reports	15th Day of each Month
EE/CA Work Plan	Within 30 days of the effective date of the Order
EE/CA Part I - Site Characterization Report	Within 60 days of EPA approval and acceptance of the EE/CA Work Plan
EE/CA Part II - Risk Evaluation	Within 30 days of EPA approval and acceptance of the EE/CA Part I - Site Characterization
EE/CA Part III - Removal Alternatives	Within 30 days of EPA approval and acceptance of the EE/CA Part II - Risk Evaluation