US EPA RECORDS CENTER REGION 5

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	Docket No. V-W-'02-C-698
THIRD SITE	)	ADMINISTRATIVE ORDER BY
	)	CONSENT PURSUANT TO
Zionsville, Indiana	)	SECTIONS 106 AND 122
	)	OF THE COMPREHENSIVE
	)	ENVIRONMENTAL RESPONSE,
	)	COMPENSATION, AND
	)	LIABILITY ACT OF 1980,
	)	As amended, 42 U.S.C.
	)	§§ 9606 and 9622

FIRST AMENDMENT TO ADMINISTRATIVE ORDER BY CONSENT

WHEREAS Non-Premium Respondents to the above captioned Administrative Order by Consent (the "Order") have implemented the response actions for the DNAPL Area described in Section V.2(a)(1)-(3) of the Order as provided in an approved Work Plan and Work Plan amendments;

WHEREAS the treatment measures performed for the DNAPL Area have not achieved the cleanup standards established in the Order and in EPA's Enforcement Action Memorandum for the Site;

WHEREAS consistent with the Additional Work provisions of Section V.2.6 of the Order, Non-Premium Respondents have proposed using Electrical Resistance Heating ("ERH") as an alternative treatment approach to achieve cleanup standards for the DNAPL Area;

WHEREAS EPA is approving a change in the selected response action to supplement treatment of the DNAPL area with ERH in an Amended Enforcement Action Memorandum for the Site, subject to Non-Premium Respondents' agreement to perform ERH under the terms of the Order, as amended.

THEREFORE, the parties agree to modify the Order as follows:

1. Section V.2(a) of the Order shall be revised to add to (a)(3), ", and after injection of reagents in the DNAPL area, further treatment with Electrical Resistance Heating (ERH) to break down any remaining DNAPL and achieve cleanup standards, as provided in an Amended Action Memorandum;".

2. Section V.2.1 of the Order shall be amended to add a new second unnumbered paragraph which provides "Within 60 days after the Effective Date of this Amendment to the Order,

Non-Premium Respondents shall submit a revised Work Plan providing for performance and monitoring of ERH treatment to U.S. EPA for review and approval consistent with the provisions of the Order. The revised Work Plan shall provide for a description of, and an expeditious schedule for, the actions required by this Paragraph. Within 45 days after U.S. EPA approves the revised Work Plan, Non-Premium Respondents shall submit a design document for the ERH treatment to U.S. EPA for review and approval consistent with the provisions of the Order. The design document shall be sufficient in detail to support construction and related activities."

3. Section VII.E of the Order shall be amended to add a new paragraph which provides: "To the extent it is not clear under the Order, after the Effective Date of this Amendment, the "oversight costs" that Non-Premium Respondents shall pay related to ERH shall include, but shall not be limited to the following costs to the extent they relate to ERH: all costs not inconsistent with the NCP, including direct and indirect costs, paid by the United States in connection with reviewing or developing deliverables submitted pursuant to the Order, in overseeing implementation of the Work, or otherwise implementing, overseeing, or enforcing this Order, including but not limited to, payroll costs, inter-agency agreement costs, contractor and subcontractor costs, travel costs, laboratory costs, and the costs incurred to secure or enforce access, to provide for community involvement, to resolve disputes, and all other ERH-related costs not inconsistent with the NCP."

No other provisions of the Order are amended, and all other provisions of the Order remain in full effect.

IT IS SO AGREED AND ORDERED:

BY: _____ DATE: 12/12/2016

Douglas Ballotti, Acting Director
Superfund Division
United States Environmental Protection Agency
Region 5

IN THE MATTER OF:
THIRD SITE
ZIONSVILLE, INDIANA
Docket No. V-W-'02-C-698

The Undersigned Trustees of the Third Site Trust Fund, on behalf of the Non-Premium Respondents to the Order, enter into this First Amendment to Administrative Order by Consent, relating to the Third Site Superfund Site.

For Respondents:

BY: _____ DATE: 11/28/16

Norman W. Bernstein, Trustee

c/o N.W. Bernstein & Associates, LLC
800 Westchester Ave., Suite N319
Rye Brook, New York 10573

BY: _____ DATE: 11/28/2016

Peter M. Racher, Trustee

c/o Plews Shadley Racher & Braun LLP
1346 North Delaware Street
Indianapolis, IN. 46202

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