Langsam Stevens Silver & Hollaender LLP
ENVIRONMENTAL, REAL ESTATE, BUSINESS AND INSURANCE LAW

March 1, 2013

Via email and Fed Ex
Thomas Nash, ORC (C-14J)
U.S. Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Re: South Dayton Dump and Landfill Site, Moraine, Ohio ("Site")

Dear Mr. Nash:

I am writing in response to three identical letters dated January 29, 2013 from Jason El-Zein addressed to me on behalf of the following companies: Hobart Corporation, NCR Corporation and Kelsey-Hayes Company (collectively Responding Companies).

The Responding Companies have reviewed the Administrative Settlement Agreement and Order on Consent (ASAOC) enclosed with Mr. El-Zien's January 29 letters and are returning two copies executed by each Responding Company.

The Responding Companies have signed the ASAOC with the understanding that the date "June 5" as used in the definition of "Interim Response Costs" in paragraph 8 of the ASAOC ("…incurred after June 5 and prior to the Effective Date…") is meant to be "June 5, 2012". I note that "June 5, 2012" appeared in prior drafts of the ASAOC and the year was likely inadvertently omitted in the signature draft. (The date "June 5, 2012" also appears in the definition of "Future Response Costs".) We did not notice the missing "2012" until yesterday and apologize for not alerting you to it earlier.

The Responding Companies have signed the ASAOC with the further understanding that the second sentence of the definition of "Future Response Costs" ("Future Response Costs shall also include, but not be limited to, payroll costs, contractor costs, travel costs, laboratory costs …") is not intended to extend reimbursement obligations beyond the substantive limiting language in the first sentence ("…pursuant to this Settlement Agreement, in overseeing implementation of the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement…") to encompass costs associated with work (such as the RD/RA) the Responding Companies or others may perform pursuant to other settlement agreements or orders regarding this Site or any other site.

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The Responding Companies have signed the ASAOC with the understanding that they are not being asked under the ASAOC to perform vapor intrusion removal action work on the Valley Asphalt Corporation property on the Site. The ongoing discussions between the Responding Companies' Technical Committee and EPA regarding the Work Plan for this removal action are consistent with that understanding. As all parties are aware, Valley Asphalt continues to insist on performing on its own property the removal work contemplated by the ASAOC and likely will not cooperate in providing access or permit other entities to alter or demolish its buildings. It is the Responding Companies' further understanding that EPA will make efforts, including the issuance of a unilateral administrative order, to require Valley Asphalt to perform the removal work on its property. The Responding Companies understand that the ASAOC will not be interpreted to hold the Responding Companies responsible for vapor intrusion removal actions on the Valley Asphalt Corporation property nor will it be found to require the Responding Companies to act upon any deficiency due to an act or omission on the part of Valley Asphalt.

The Responding Parties continue to be disappointed that EPA is not making more vigorous efforts to require that other potentially responsible parties (PRPs) perform or finance response actions at the Site and pay EPA's past costs. As we have discussed with EPA Region 5 personnel on several occasions, the factual record shows that many of these PRPs have contributed substantial amounts of waste to the Site. In particular, it is especially inappropriate that the Dayton Power & Light Company (DP&L) continues to avoid all responsibility for its contribution to this Site, which dwarfs any contribution by the parties to this letter. We urge EPA to focus its future enforcement efforts on DP&L and other PRPs that have received General Notice Letters from EPA.

Thanks for your efforts and cooperation in bringing this ASAOC to completion.

Sincerely,
LANGSAM STEVENS SILVER & HOLLAENDER LLP

Larry Silver

Enclosures

Cc: Jason El-Zein
Carol Ropski
Steve Renninger