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

March 19, 2013

Via email and regular mail
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
Cost Bill dated December 11, 2012

Dear Mr. Nash:

I am writing on behalf of Hobart Corporation, NCR Corporation and Kelsey-Hayes Company (collectively Respondents) in response to a letter dated December 11, 2012 from Richard D. Hackley of EPA Region 5 requesting payment of $1,057,336.66 purportedly under the Administrative Settlement Agreement and Order on Consent for RI/FS (ASAOC). An Itemized Cost Summary is attached to Mr. Hackley's letter. The letter directs any comments regarding the "legality of this bill" to you.

The Respondents have reviewed the Itemized Cost Summary. It is evident from the Summary that a large portion of the costs identified therein are not "oversight" costs but are related to the completion of the Remedial Investigation/Feasibility Study by EPA and its contractors. To further evaluate the costs listed in the Itemized Cost Summary, the Respondents requested (by email from Ken Brown to Leslie Patterson dated December 20, 2012) EPA's supporting documentation.

By letter dated February 19, 2013 to Ken Brown, Leslie Patterson provided some of the documentation requested, which we are reviewing, but did not include other key documentation that Mr. Brown requested. We have had an accountant experienced in EPA cost documentation review and analyze what was provided and identify the additional requested documentation.

Among the documents not provided but were requested are the following monthly CH2MHill documents: voucher, technical status reports and work assignment detail task level reports as follows: (i) Voucher B91 dated 7/22/11; (ii) Voucher B93 dated 8/23/11; (iii) Voucher B97 dated 11/3/11; and Voucher B113Z dated 7/10/12. We also note that Statement of Work Revision No. 3 dated 9/27/11 for CH2M Hill has redactions at pages 1 and 16. Please explain the reason for the redactions or provide the text.

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In addition, the following categories of documents were requested but not provided: (a) a full set of EPA employee time sheets and travel vouchers, or, as an alternative to the time sheets, a Verification Report from EPA's accounting system which shows the activity codes that were charged by the employees; (b) Delivery Order 19 for Primus Solutions; (c) Delivery Order 15 for E2 Inc; and (e) Progress Reports for Ohio EPA from 8/2011 through 7/2012.

Under the ASAOC, the Respondents' obligation to reimburse EPA for costs is limited to the ASAOC's definition of "Future Response Costs." *See* ASAOC ¶¶79.a and 11i. The "Future Response Costs" definition does not include costs associated with work by EPA and its contractors in completing the RI/FS or any portion thereof that are not also "oversight" costs.

The cost documentation provided by EPA and other information indicate that only some of the costs billed by EPA and its contractor CH2MHill were related to items addressed in EPA comments about alleged "deficiencies" with the Respondents' drafts of the RI/FS submitted to EPA. Instead, most of the costs billed are related to additions or modifications made by CH2MHill in completing the RI/FS, regarding which the Respondents and their consultants were never asked to perform. Such costs are not "oversight" costs in any sense and are not encompassed within the "Future Response Costs" definition of the ASAOC. The Respondents respectfully decline to assume obligations not encompassed by the ASAOC.

We request that EPA provide us the remaining documentation (as listed in this letter) requested by Ken Brown's December 20, 2012 email as soon as possible. We also ask that EPA re-issue the cost bill after excluding EPA's and its contractors' costs of completing the RI/FS and any related indirect costs, consistent with the ASAOC.

Sincerely,
LANGSAM STEVENS SILVER & HOLLAENDER LLP

Larry Silver

Cc: Richard D. Hackley, EPA Region 5
Leslie Patterson, EPA Region 5 (SR-6J)