UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
ENVIRONMENTAL
CLEANUP

APR 1 2 2012

URGENT MATTER
PROMPT REPLY NECESSARY
UPS NEXT DAY DELIVERY

Ms. Lorrie D. Scott
Vice President, General Counsel & Corporate Secretary
Potlatch Forest Products Corporation
and Potlatch Corporation
601 West First Avenue, Suite 1600
Spokane, Washington 99201

Re: Avery Landing Site, Shoshone County, Idaho
Unilateral Administrative Order for Removal Response Action
EPA Docket No. CERCLA-10-2012-0120

Dear Ms. Scott:

The United States Environmental Protection Agency is issuing the enclosed "Unilateral Administrative Order for Removal Response Action" ("Order") to Potlatch Land and Lumber, LLC, Potlatch Corporation, and Potlatch Forest Products Corporation (together "the Potlatch Companies"). Under the Order, the Potlatch Companies are responsible for the cleanup of contamination at the Avery Landing Site in Shoshone County, Idaho. This work will be subject to the oversight and direction of the EPA.

The Potlatch Companies have an opportunity to confer with and present information to the EPA concerning the Order. Please see the Order for the details and timing regarding this opportunity.

The EPA looks forward to the timely and successful completion of work under the Order in 2012 by the Potlatch Companies.

Sincerely,

Daniel D. Opalski
Director

Enclosure

cc: Earl Liverman
Richard Mednick

655962

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 10

IN THE MATTER OF: Avery Landing Site Avery, Idaho Potlatch Corporation, Potlatch Forest Products Corporation, and Potlatch Land and Lumber, LLC, Respondents.	UNILATERAL ADMINISTRATIVE ORDER FOR REMOVAL RESPONSE ACTION U.S. EPA Region 10 Docket No. CERCLA-10-2012-0120 Proceeding Under Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9606(a); and Section 7003(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6973(a).

I. JURISDICTION AND GENERAL PROVISIONS

A. This Unilateral Administrative Order for Removal Response Action ("Order") is issued pursuant to authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9606(a), and Section 7003(a) of the Solid Waste Disposal Act, also known as the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6973(a). These authorities have been delegated to the Administrator of the United States Environmental Protection Agency ("EPA"), and further delegated to the Regional Administrators of EPA and the Director of the Environmental Cleanup Office of Region 10 of EPA.

B. This Order pertains to the Avery Landing Site ("Site") located approximately three quarters of a mile to the west of the town of Avery in Shoshone County, Idaho. This Order is issued to Potlatch Corporation ("PC"), Potlatch Forest Products Corporation ("PFPC") and Potlatch Land and Lumber, LLC ("PLL"). Together, PC, PFPC and PLL are referred to in this Order as "Respondents".

C. This Order requires Respondents to abate an imminent and substantial endangerment to the public health or welfare or the environment that may be presented by the actual or threatened release of hazardous substances and disposal of solid waste at the Site.

D. EPA has notified the State of Idaho ("State") of this action in conformance with Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), and Section 7003(a) of RCRA, 42 U.S.C. § 6973(a).

II. PARTIES BOUND

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

B. Respondents shall provide their contractors, subcontractors, and representatives with a copy of this Order, and assure compliance by these persons with this Order. Respondents shall be fully responsible for any noncompliance with this Order.

III. DEFINITIONS

Unless otherwise expressly provided herein, terms used in this Order that are defined in Section 101 of CERCLA, 42 U.S.C. § 9601, Section 1004 of RCRA, 42 U.S.C. § 6903, or in applicable regulations promulgated under CERCLA or RCRA shall have the meaning assigned to such terms in those laws. In addition, whenever the terms listed below are used in this Order or the appendices attached hereto, the following definitions shall apply:

A. "Action Memorandum" shall mean the "Action Memorandum for the Avery Landing Site located near Avery, Shoshone County, Idaho," issued by EPA on July 5, 2011, setting forth the removal action selected by EPA for the Site, and including, with the exception of the Confidential Enforcement Addendum, all attachments thereto.

B. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675.

C. "Day" or "day" shall mean a calendar day. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business on the next working day.

D. "Effective Date" shall mean the effective date of this Order as provided in Section XX herein.

E. "EPA" shall mean the United States Environmental Protection Agency and its successor departments, agencies, or instrumentalities.

F. "EPA Hazardous Substances Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

G. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substances 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.

H. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan codified at 40 C.F.R. Part 300, including any amendments thereto.

I. "Order" shall mean this Unilateral Administrative Order for Removal Response Action and all appendices attached hereto. In the event of conflict between this Order and any appendix, this Order shall control.

J. "OSC" shall mean the Federal On-Scene Coordinator for EPA as identified in Section VII herein.

K. "Paragraph" shall mean a portion of this Order identified by an Arabic numeral or an upper or lower case letter.

L. "RCRA" shall mean the Solid Waste Disposal Act, also known as the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901-6992k.

M. "Respondents" shall mean Potlatch Corporation, Potlatch Forest Products Corporation, and Potlatch Land and Lumber, LLC.

N. "Response Costs" shall mean all costs, including, but not limited to, direct costs, indirect costs, payroll costs, contractor costs, travel costs and laboratory costs, that EPA incurs in reviewing or developing plans, reports, and other deliverables submitted pursuant to this Order, in enforcing this Order, and in monitoring, overseeing and supervising performance of the Work to assure such performance is consistent with the requirements of this Order.

O. "Section" shall mean a portion of this Order identified by a Roman numeral.

P. "Site" shall mean the Avery Landing Site encompassing parcels of real property owned by PLL, the United States, the Idaho Department of Lands, and Larry and Ethel Bentcik. The Site is located approximately three quarters of a mile to the west of the town of Avery in Shoshone County, Idaho, and is depicted on the diagram attached hereto as Appendix A.

Q. "Statement of Work" or "SOW" shall mean the statement of work developed by EPA for implementation of the Work by Respondents. The SOW is attached hereto as Appendix B, and shall also include any modifications made thereto by EPA.

R. "United States" shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA.

S. "Work" shall mean all activities Respondents are required to perform under this Order to implement the removal action set forth in the Action Memorandum with the exception of the retention of records requirements in Paragraph H of Section VI herein.

T. "Work Plan" shall mean the document developed and approved pursuant to Paragraph D of Section VI herein, and any modifications thereto made in accordance with this Order.

IV. FINDINGS OF FACT

The following Findings of Fact are made based on available information in the possession of EPA:

A. The Site is located about three quarters of a mile to the west of the town of Avery in Shoshone County, Idaho, and is immediately adjacent to the St. Joe River.

B. Chicago, Milwaukee, St. Paul & Pacific Railroad ("CM-RR") was an owner of the Site from 1909 to 1980, and conducted various operations at the Site, including, but not necessarily limited to, switching station and maintenance work. From 1977 to 1985, CM-RR underwent bankruptcy reorganization.

C. PC leased property at the Site from CM-RR beginning in 1973, and obtained an ownership interest from CM-RR in a portion of the Site in 1980. This ownership interest was transferred to PFPC in 2005 and in turn to PLL in 2008.

D. During the time that PC held property interests at the Site, the property was leveled, graded and used for various purposes, including but not necessarily limited to, log storage, parking, a rail line, and housing for employees and others.

E. In addition to the property currently owned by PLL, other properties at the Site are owned by the United States, the Idaho Department of Lands ("IDL"), and Lawrence and Ethel Bentcik.

F. On various occasions from on or before 1970 through 2011, there have been visual observations of oil being released from the shoreline of the Site to the St. Joe River.

G. In 1988, PC was notified by the Idaho Department of Health and Welfare, Division of Environmental Quality ("IDHW/IDEQ") of observations of oil migrating from the Site to the St. Joe River. During that same year, PC examined its property at the Site and found there to be oil in the soil, as well as a 2-foot thick mass of oil in the groundwater at a depth of 13 feet below ground surface. PC further observed ongoing releases of oil to the St. Joe River from a 30-foot long area of the shoreline, and evidence of past releases of oil impacting a 200-foot long area of the river bank.

H. In 1989, PC observed more instances of oil in the soil and well water at the Site, as well as additional ongoing releases of oil from the Site to the river bank.

I. Investigations by IDHW/IDEQ in the late 1980s and early 1990s showed there to be oil at a depth of four feet or more in the water table underlying the Site. In 1992, samples obtained by EPA showed there to be benzene, arsenic, lead, polychlorinated biphenyls ("PCBs"), volatile organic compounds ("VOCs") and semi-volatile organic compounds ("SVOCs") in groundwater at the Site. PC was notified of these findings.

J. In accordance with a consent order entered into with IDHW/IDEQ, PC installed an extraction system in 1994 that was designed to remove oil from the Site. In the consent order, it was acknowledged by PC that there was oil in the groundwater and oil being released to the St. Joe River. The extraction system was operated by PC from 1994 to 2000 and included the following components: (1) excavation of trenches along the shoreline of the St. Joe River; (2) extraction of liquid, including, but not necessarily limited to, oil and groundwater from the trenches; (3) placement of the extracted liquid into an oil/water separator; (4) temporary storage on-Site of the segregated oil and eventual disposal of this oil off-Site; and (5) discharge of the remaining segregated liquid onto property of the United States in a manner that allowed the liquid to infiltrate back into groundwater at the Site.

K. Approximately 1,290 gallons of oil were removed from below the ground surface at the Site during the operation by PC of the extraction system. Despite this removal effort, the releases of oil from the Site to the St. Joe River continued to be observed during and after the years of operation of the extraction system.

L. The failure of the extraction system to prevent the ongoing releases of oil to the St. Joe River lead a PC contractor to speculate in 2000 that groundwater flow may be the cause of contaminant migration going from the Site to the river. At about this same time, the PC contractor estimated that the horizontal oil-impacted area of the Site covered approximately 92,000 square feet, and that the oil had also reached a vertical depth of as much as 18-feet below ground surface.

M. An amendment to the consent order previously entered into by IDHW/IDEQ and PC was agreed to in 2000 between PC and the Idaho Department of Environmental Quality ("IDEQ"). In accordance with this amendment, PC installed a below ground level vertical containment barrier and recovery wells in 2000 along the shoreline of the Site in an attempt to prevent the continued migration of oil from the Site to the St. Joe River. This work included the following components: (1) excavation of a trench along the bank of the St. Joe River; (2) placement of a polyvinyl chloride liner into the trench; and (3) filling of the remaining portions of the trench with sand, gravel, and rip rap. PC also installed a series of product recovery trenches and wells in an effort to recover oil that could collect against the barrier.

N. Oil sheens on the surface water of the St. Joe River and the releases of oil from the Site to the river have continued to be observed following the installation of the containment barrier and recovery wells by PC. These sheens and releases have been observed by PC since on or before 2005. A PC contractor speculated that the continued migration of oil could be due to breaches to the containment barrier or because the barrier resulted in new pathways for the groundwater to flow from the Site to the St. Joe River.

O. At the request of the IDEQ, EPA performed an assessment of the Site in 2007. EPA visited the Site and observed oil on surface water and groundwater, as well as in subsurface soil. EPA also observed oil sheens on the surface water of the St. Joe River, and oil being released from along and below the shoreline into the river, as well as oil discoloration on rip rap located along the shoreline of the river. Samples of subsurface soil and groundwater showed there to be arsenic, lead, manganese and mercury, along with polynuclear aromatic hydrocarbons ("PAHs") and PCBs. Further, surface water from the St. Joe River along the edge of the Site was found to contain four PAHs, including benz[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthrene, and chrysene. Based on the results from the assessment work, EPA determined it would be appropriate to perform a removal action at the Site. PC was informed of these findings.

P. In 2008, EPA entered into an agreed order obligating PC and PFC to perform an engineering evaluation/cost analysis ("EE/CA") of the Site. The EE/CA was designed to present an examination of the data, information, and removal action alternatives for the Site. As part of the EE/CA, PC and PFPC also gathered additional data for the Site. During the EE/CA, there were observations of oil in subsurface soil and sediment, as well as on surface water and groundwater. Samples of subsurface soil and sediment showed there to be oil, metals, PCBs, VOCs, and SVOCs including PAHs. Groundwater was found to contain PAHs and surface water was found to contain PAHs and metals.

Q. PC and PFPC prepared a series of draft EE/CA reports that were all deemed deficient by EPA. As a result, EPA produced the EE/CA report for the Site. EPA made the EE/CA report available for public comment, considered all comments received from the public, including comments from Respondents and the State, and developed and issued responses to these comments.

R. The hazardous substances identified in the EE/CA report for the Site include the following: (1) PCBs; (2) carcinogenic PAHs comprised of benzo[a]anthracene, chrysene, benzo[a]pyrene, benzo[b]fluoranthene and dibenz[a,h]anthracene; (3) non-carcinogenic PAHs comprised of acenaphthene, fluorene, naphthalene and methylnaphthalene isomers; (4) metals comprised of arsenic, manganese and mercury; and (5) SVOCs comprised of 4,6-dinitro-2-methylphenol, 4-nitroaniline and n-nitosodiphenylamine.

S. The concentrations in soil at the Site of PAHs and metals exceed the Human Health Medium-Specific Screening Levels ("HHMSSLs") developed by EPA and/or the guidelines in the Risk Evaluation Manual ("REM") developed by the State. Also, the concentrations in groundwater at the Site of PAHs, metals, and PCBs exceed the REM guidelines. Further, the concentration in groundwater at the Site of PAHs exceeds the HHMSSLs for tap water, and of metals exceeds the HHMSSLs for tap water and/or the Maximum Contaminant Levels for drinking water. In addition, the concentrations in surface water of PAHs and metals exceed the REM guidelines, and of benzo[a]pyrene exceed the Ambient Water Quality Criteria.

T. There is a plume of oil referred to as "light non-aqueous phase liquid" or "LNAPL" which is in or on the groundwater at the Site. The estimated horizontal expanse of this plume of oil increased in size from 2000 to 2006, and then increased in size again from 2006 to 2011. At least some of these estimates were developed by PC. A recent estimate shows the plume to underlie several

parcels of property at the Site. The general direction of groundwater flow is from the Site toward the St. Joe River. As a result, in addition to an increase in the horizontal expanse of the plume of oil over time, the growing plume has also steadily been advancing in the direction of the St. Joe River.

U. The St. Joe River is designated by the State for a special resource water, domestic water supply, primary contact recreation, cold water communities and salmonid spawning. Canada Lynx and Bull Trout are protected under the Endangered Species Act and are known to be present in the vicinity of the Site. There are ecological receptors that may be exposed to contaminants at the Site through direct contact or ingestion, and the resulting exposure could cause adverse effects on these receptors. The VOCs, SVOCs, carcinogenic and non-carcinogenic PAHs, PCBs, and metals in subsurface soil, sediment, surface water, and groundwater exceed applicable federal and/or state guidelines. There are no restrictions on public access to the Site and entry by persons may be gained from land or water. There are nearby residents, visitors, recreationists, commercial and municipal employees, and trespassers who could be exposed to the contamination at the Site. Precipitation and other run-off inducing events will tend to expand and move the plume of oil within the Site and toward the St. Joe River, resulting in further risk of exposure to humans and biota.

V. EPA has developed an Integrated Risk Information System ("IRIS") which contains health assessment information for substances and is based on a review of toxicity data by EPA scientists. The EPA website at "http://cfpub.epa.gov/ncea/iris/index.cfm?fuseaction=iris.showSubstanceList" sets forth the IRIS information in electronic form. Arsenic and benzene are known human carcinogens according to IRIS, and each of these substances has been found at the Site. Among the probable or possible human carcinogens listed on IRIS, at least nine of these substances have been detected at the Site, including lead, PCBs, naphthalene, n-nitrosodiphenylamine, dibenz[a,h]anthracene, chrysene, benzo[b]fluoranthrene, benzo[a]pyrene and benz[a]anthracene. IRIS also identifies non-carcinogenic health hazards, such as neurobehavioral impairment and respiratory and autonomic system effects, associated with some of the substances identified above as well other substances found at the Site, including acenaphthene, fluorine, manganese and mercury. The potential routes of human exposure to substances listed in IRIS include dermal, oral and inhalation, and conditions at the Site do not currently prevent the risk of these exposures to IRIS-listed substances at the Site.

W. Relying on the EE/CA report and other information about the Site, EPA issued the Action Memorandum setting forth the selected actions for cleanup of the Site. The general goals of these actions are to prevent the continuing release of oil and hazardous substances to the St. Joe River, and reduce the oil and hazardous substances which may remain at the Site post-cleanup to acceptable levels.

X. The cleanup action necessary for the Site includes, but is not necessarily limited to, the following: (1) excavation and off-Site disposal of contaminated soil; (2) recovery, if possible, of oil and treatment of groundwater and surface water that accumulates in excavation or containment areas; (3) backfilling of excavated areas with clean material; (4) removal of all or a portion of the oil recovery system and vertical containment barrier and appurtenances thereto installed by PC in 1994 and 2000 along the banks of the St. Joe River; (5) reconstruction of the river bank, where

appropriate; (6) installation of groundwater monitoring wells; (7) evaluation and, if deemed necessary and appropriate by EPA, protection or mitigation for historic properties; (8) implementation of best management construction and green cleanup practices; (9) institutional controls placed on uses of the Site following the completion of on-Site actions; and (10) long-term monitoring and maintenance.

Y. In 2011, at the request of EPA, additional data about the PLL-owned portion of the Site was obtained on behalf of Respondents. This data shows there to be VOCs, SVOCs, metals and PCBs in soil, as well as oil in groundwater. This data does not alter the removal action selected for the Site, but rather may result in some refinement to the work for certain areas of the Site.

Z. The direction of groundwater flow at the Site indicates that groundwater and associated contamination is moving in a direction from the PPL-owned property to the IDL-owned property and the St. Joe River.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the foregoing Findings of Fact and the administrative record, EPA makes the following determinations:

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

B. The contamination at the Site includes one or more "hazardous substance" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and "solid waste" because it is discarded material as defined by Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

C. Respondents are each a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

D. Respondents are each liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

E. There is an actual or threatened "release" of one or more hazardous substance at the Site as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and "disposal" of solid waste at the Site as defined by Section 1004(3) of RCRA, 42 U.S.C. § 6903(3).

F. The conditions at the Site may present an "imminent and substantial endangerment" to the public health or welfare or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), and Section 7003(a) of RCRA, 42 U.S.C. § 6973(a).

G. The potential endangerment at the Site, in whole or in part, is also the result of the past or present handling, storage, treatment, transportation, or disposal of solid waste.

H. Respondents have each "contributed" or are "contributing to" the disposal of solid waste at the Site within the meaning of Section 7003(a) of RCRA, 42 U.S.C. § 6973(a).

I. The hazardous substances and solid wastes, including oil, are commingled at the Site.

J. The removal action selected in the Action Memorandum and the Work required by this Order are necessary to protect the public health or welfare or the environment and are in accordance with CERCLA, RCRA, and the NCP.

VI. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law and Determinations, and upon the Administrative Record for the Site, EPA hereby orders Respondents to comply with the following provisions, including but not limited to all attachments to this Order, all documents incorporated by reference into this Order, and all schedules and deadlines in this Order, attached to this Order, or incorporated by reference into this Order, and to perform the following actions:

A. Project Coordinator

Respondents shall designate a Project Coordinator who shall be responsible for administration of the Work. Within **15 days** after the Effective Date, Respondents shall provide EPA with the name, electronic and mailing addresses, telephone number, and qualifications of the designated Project Coordinator. If EPA should disapprove of a Project Coordinator so designated by Respondents, within **3 days** of this disapproval, Respondents shall designate a new Project Coordinator and provide EPA with the name, electronic and mailing addresses, telephone number, and qualification of the new Project Coordinator. To the greatest extent practicable, the Project Coordinator shall be present on-Site or readily available during performance of the Work or at the request of EPA. Receipt by the Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by Respondents.

B. Contractor(s) and Subcontractor(s)

Respondents shall retain a primary contractor, as well as other contractors and subcontractors as necessary, to perform the Work. Within **15 days** of the Effective Date, Respondents shall notify EPA of the name and qualifications of the primary contractor and any other contractor(s) and subcontractor(s) retained to perform the Work. The primary contractor must demonstrate compliance with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01-002, March 2001). If EPA disapproves of the primary contractor or any other contractor or subcontractor retained by Respondents, within **7 days** of this disapproval, Respondents shall retain a new primary contractor, contractor or subcontractor, as the case may be, and provide EPA with the name and qualifications of this newly retained individual or entity.

C. Cleanup Activities

Respondents shall, at a minimum, perform the following cleanup activities: (1) excavation and off-Site disposal of contaminated soil; (2) recovery, if possible, of oil and treatment of groundwater and surface water that accumulates in excavation or containment areas; (3) backfilling of excavated areas with clean material; (4) removal of the oil recovery system and vertical containment barrier and appurtenances thereto installed by PC in 1994 and 2000 along the banks of the St. Joe River; (5) reconstruction of the river bank, where deemed appropriate by EPA; (6) installation of groundwater monitoring wells; (7) evaluation and, if deemed necessary and appropriate by EPA, protection or mitigation for historic properties; and (8) implementation of best construction management and green cleanup practices. The on-Site cleanup activities shall be performed by Respondents on properties owned or controlled by Respondents and IDL, as well as on any other areas or property as determined to be necessary by EPA. In performing these activities, Respondents shall not interfere with or impede any actions being undertaken by EPA at or near the Site.

D. Work Plan and Schedule

Within **20 days** after the Effective Date, Respondent shall provide EPA, for review and approval, a draft Work Plan and Schedule for performance of the Work. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan and Schedule. If EPA notifies Respondents of revisions required thereto, Respondents shall provide EPA with a draft Work Plan and Schedule which incorporates these revisions within **10 days** of this notification. Upon notice of approval or modification by EPA, Respondents shall implement the Work Plan in accordance with the Schedule. The Work Plan and Schedule may also be subsequently modified by EPA and Respondents shall perform in accordance with any such modifications.

E. Health and Safety Plan

Within **20 days** after the Effective Date, Respondents shall submit to EPA, for review and comment, a draft health and safety plan ("H&S Plan") that ensures protection of the public health and safety during performance of on-Site activities under this Order. The draft H&S Plan shall be prepared in accordance with EPA's Standard Operating Safety Guide, (November 1984, updated July 1988). In addition, the draft H&S Plan shall comply with all current applicable Occupational Safety and Health Administration ("OSHA") regulations; Hazardous Waste Operations and Emergency Response; found at 29 C.F.R. Part 1910. Within **5 days** of receipt of any comments from EPA, Respondents shall provide EPA with a final H&S Plan incorporating therein all changes recommended by EPA. Thereafter, Respondents shall implement the final H&S Plan during performance of the Work.

F. Quality Assurance and Sampling

1. Within **20 days** after the Effective Date, Respondents shall provided EPA, for review and comment, a draft Quality Assurance, Quality Control, and Sampling and Analysis Plan ("QA/QC/SA Plan") that outlines all sampling, analysis, quality assurance (QA"), quality control

("QC"), data validation and chain of custody to be performed pursuant to this Order. Within **5 days** after receipt of comments from EPA, Respondents shall provide EPA with a final QA/QC/SA Plan incorporating therein all changes recommended by EPA. Thereafter, Respondents shall implement the final QA/QC/SA Plan during the Work.

2. All sampling and analyses performed pursuant to this Order shall conform to EPA direction, approval, and guidance regarding sampling, QA, QC, data validation and chain of custody procedures. Respondents shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with applicable EPA guidance. Respondents shall follow the following documents as appropriate as guidance for QA/QC and sampling: (a) "EPA Guidance for Quality Assurance Project Plans (QA/G-5)," (EPA/240/B-01/003, March 2001), http://www.epa.gov/quality/qs-docs/g5-final.pdf; (b) "EPA Guidance for Quality Assurance Project Plans (QA/G-5)" (EPA/600/R-98/018, February, 1998); (c) "Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures," OSWER Directive Number 9360.4-01; (d) "Environmental Response Team Standard Operating Procedures," OSWER Directive Number 9360.4-02 through 9360.4-08; and (d) "Environmental Response Team Standard Operating Procedures," http://www.epaosc.org/site/site_profile.aspx?site_id=2107.

3. Upon request by EPA, Respondents shall have a laboratory analyze samples submitted by EPA for QA monitoring. Respondents shall provide EPA with the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis under this Order. Respondents shall only use laboratories that have a documented quality system which 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).

4. Upon request by EPA, Respondents shall allow EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondents while performing the Work. Respondents shall notify EPA not less than **5 days** in advance of any sample collection activity. EPA shall have the right to take any additional samples that it deems necessary.

5. Respondents shall perform QA/QC data validation procedures on all of the laboratory work, and generate QA/QC data validation memoranda.

G. Reporting

Respondents shall submit a written progress report to EPA every **7th day** after approval by EPA of the Work Plan until termination of this Order, unless otherwise directed by EPA. Each such report shall describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of activities to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

H. Records, Data, Documentation and Information

1. Respondents shall provide EPA with access, at all reasonable times, to all records and documentation related to conditions at the Site and the Work. Further, within **3 days** of receipt by Respondents, Respondents shall provide EPA with the results of all sampling or tests and all other data generated or obtained by Respondents or their contractors pertaining to contamination at the Site.

2. Respondents shall preserve all documents and information relating to the Work, or relating to oil or hazardous substances found on or released or discharged from the Site, for **10 years** following completion of the Work. At the end of this **10-year** period of time but at least **30 days** before any document or information is destroyed, Respondents shall notify EPA that such documents and information are available to EPA for inspection, and shall, upon request, provide the originals or copies of such documents and information to EPA. In addition, Respondents shall provide documents and information retained under this Paragraph at any time before expiration of the **10-year** period at the written request of EPA.

3. 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 submitted to EPA pursuant to this Order, 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, 42 U.S.C. § 9604(e)(7)(F), shall not be claimed as confidential by Respondents. EPA shall only disclose information covered by a business confidentiality claim to the extent permitted by, and by means of the procedures set forth at, 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, EPA may make it available to the public without further notice to Respondents.

4. Respondents shall maintain a running log of privileged documents pertaining to the Site and this Order on a document-by-document basis, containing the date, author(s), addressee(s), subject, the privilege or grounds claimed (e.g., attorney work product, attorney-client), and the factual basis for assertion of the privilege. Respondents shall keep the "privilege log" on file and available for inspection. EPA may at any time challenge claims of privilege through negotiations or otherwise as provided by law or the Federal Rules of Civil Procedure.

I. Off-Site Shipments

All hazardous substances removed off-Site pursuant to this Order for treatment, storage, or disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by EPA, with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3) and 40 C.F.R. § 300.400.

J. Access to Property

1. Respondents shall provide employees, contractors, agents, consultants, designees and representatives of EPA with access to the Site and off-Site areas under the ownership or control of Respondents. Such access shall be provided for the purpose of performing or overseeing any or all of the removal action set forth in the Action Memorandum.

2. Where activities under this Order are to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain all necessary access agreements. If Respondents have not obtained such access agreements within **15 days** after the Effective Date, Respondents shall so notify EPA, in writing, and describe therein their efforts to obtain access. The failure of Respondents to undertake best efforts in obtaining access shall be a violation of this Order. Thereafter, EPA may assist Respondents in gaining access, to the extent necessary to effectuate the Work, using such means as EPA deems appropriate. EPA reserves the right to seek reimbursement from Respondents for all costs and attorney's fees incurred by the United States in obtaining access for Respondents.

K. Transfer of Interest

Respondents shall, at least **30 days** prior to the transfer of any interest in real property at the Site, provide written notice of this Order to the transferee, and written notice to EPA of the transfer, including the name and address of the transferee. Any such transfer of an interest shall not alter any obligations of Respondents under this Order. Further, Respondents shall ensure that each transferee allows EPA and its representatives access to the property of the transferee at the Site.

L. Compliance with Other Laws

Respondents shall perform the Work in accordance with all applicable local; state; and federal laws and regulations. All on-Site activities required pursuant to this Order shall, to the extent practicable and considering the exigencies of the situation, as determined by EPA, attain applicable or relevant and appropriate requirements under federal environmental, state environmental, or facility siting laws.

M. Emergency Response and Notification of Releases/Discharges

1. If any incident, or change in Site conditions, during the Work causes or threatens to cause an additional release or discharge of oil or hazardous substances from the Site or an endangerment to the public health or welfare or the environment, Respondents shall immediately notify the OSC or, in the event of the unavailability of the OSC, the Regional Duty Officer at (206) 553-1263. Respondents shall take action as directed by the OSC or Regional Duty Officer and in accordance with all applicable provisions of this Order, including, but not limited to the H&S Plan, in order to prevent, abate or minimize such release, discharge, or threat.

2. In the event of any release or discharge of oil or a hazardous substance, Respondents shall immediately notify the National Response Center at (800) 424-8802, and Idaho State Communications at 1-800-632-8000 or (208) 334-4570. Respondents shall submit a written report to EPA within **2 days** after each release or discharge, setting forth the events that occurred and the measures taken or to be taken to mitigate the release or discharge and any endangerment caused or threatened by the release or discharge and to prevent the reoccurrence of such event. This reporting requirement is in addition to, not in lieu of, reporting under CERCLA, RCRA, the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. §§ 1251-

1387, or the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. §§ 11001-11050.

N. Removal Action Report

1. Within **60 days** after completion of all on-Site cleanup activities required under this Order, Respondents shall provide EPA, for review and approval, a draft Removal Action Report summarizing the actions taken under this Order. The draft Removal Action Report shall conform at a minimum with the provision titled "OSC Reports" in the NCP, 40 C.F.R. § 300.165, and OSWER Directive No. 9360.3-03 - "Removal Response Reporting". The draft Removal Action Report shall also include the following components: (a) a good faith estimate of total costs or statement of actual costs incurred in complying with this Order; (b) a listing of quantities and types of materials removed from the Site; (c) a discussion of removal and disposal options considered for the materials removed from the Site; (d) a listing of the ultimate destinations of the materials removed from the Site; (e) a presentation of the analytical results of all sampling and analyses performed by Respondents; (f) a description of any contamination remaining at the Site; (g) a description of the problems encountered during the Work; (h) QA/QC data validation memoranda; and (i) appendices containing all relevant documentation generated during the cleanup activities (e.g., manifests, invoices, bills, contracts, and permits).

2. Within 30 days of receipt of comments from EPA on the draft Removal Action Report, Respondents shall provide EPA with a final Removal Action Report incorporating therein all changes recommended by EPA. The final Removal Action Report shall also contain the following certification signed by a person who supervised or directed preparation of the final Removal Action Report:

> Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the final report, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

VII. ON-SCENE COORDINATOR

A. EPA has designated Earl Liverman as the On-Scene Coordinator ("OSC") for the Site. Respondents shall implement the Work in accordance with all oral and written directions of the OSC, and provide all written submissions required by this Order to the OSC. Respondents shall cooperate with the OSC at all times during oversight of this Order by the OSC. Respondents shall not interfere with or impede the use of the authority vested in the OSC by the NCP, 40 C.F.R. § 300.120, including the authority to halt, conduct, or direct any action required by this Order, or to direct any removal action performed by EPA or any other party at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

B. The OSC contact information is as follows:

Earl Liverman
Federal On-Scene Coordinator
U.S. EPA Coeur d'Alene Field Office
1910 Northwest Boulevard, Suite 208
Coeur d'Alene, Idaho 83814
Telephone: (208) 664-4858
Cellular: (b) (6)
Fax: (208) 664-5829
E-Mail: liverman.earl@epa.gov

C. Should the OSC determine that Respondents have failed to implement any aspect of the Work as prescribed by this Order, or should Respondents otherwise fail to adequately comply with a requirement of this Order, EPA may assume performance of any or all portion(s) of the Work, and Respondents shall discontinue any or all aspect(s) of the Work as may be directed by the OSC.

D. If EPA changes the designated OSC for the Site, Respondents will be so notified and will thereafter follow all requirements herein as directed to do so by the new OSC.

VIII. NONCOMPLIANCE AND ENFORCEMENT

The violation of any provision of this Order may subject Respondents to the imposition of civil penalties as provided in Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), and/or Section 7003(b) of RCRA, 42 U.S.C. § 6973(b). The amount of any such penalties is subject to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by the Debt Collection Improvement Act of 1996, and the Civil Monetary Inflation Adjustment Rule, 40 C.F.R. Part 19. In addition, as reflected in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), Respondents may be subject to punitive damages or costs in an amount up to three times the costs incurred by the United States as a result of any failure by Respondents to undertake the actions required by this Order. Should Respondents violate this Order or any portion hereof, EPA may carry out the required actions and/or seek enforcement of this Order.

IX. PAYMENTS

A. Response Costs

1. Respondents shall finance and pay Response Costs. On a periodic basis, Respondents will be provided with a bill for Response Costs incurred by EPA, and may also receive a Superfund Cost Organization Recovery Package Imaging Online System ("SCORPIOS") report or similar cost summary. Within **30 days** after receipt of a bill, Respondents shall pay the billed amount either by Fedwire Electronic Funds Transfer ("EFT") or official bank check.

2. Each payment of Response Costs made by EFT shall reference the Site/Spill ID Number 10KY and the docket number for this Order, and shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

3. Each payment of Response Costs made by official bank check shall be payable to "EPA Hazardous Substances Superfund." The check or accompanying transmittal letter shall identify the name and address of the party or parties making the payment, the facility name "Avery Landing Site", the Site/Spill ID Number 10KY, and the docket number for this Order. The check and any accompanying transmittal letter shall be sent to:

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

4. At the time of each payment of Response Costs, Respondents shall send notice that such payment has been made to the EPA Cincinnati Finance Office by electronic mail directed to "acctsreceivable.cinwd@epa.gov" or by mail sent to:

EPA Cincinnati Finance Office
26 Martin Luther King Drive
Cincinnati, Ohio 45268

B. Interest

Interest at the rate established under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), shall begin to accrue on the unpaid balance from the day of the original demand notwithstanding any dispute or objection to any portion of the costs.

X. RESERVATION OF RIGHTS

Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order any and all actions deemed necessary to protect public health or welfare or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or solid waste, on, at, or from the Site, including but not limited to the right to bring enforcement actions under CERCLA, RCRA, and any other applicable statutes or regulations. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional activities

pursuant to CERCLA, RCRA, or any other applicable law. EPA reserves the right to bring an action against Respondents for the recovery of any response costs incurred by the United States related to this Order or the Site.

XI. OTHER CLAIMS

By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or EPA shall not be deemed a party to any contract entered into by Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order. In addition, this Order does not constitute a pre-authorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2). Further, nothing in this Order shall constitute a satisfaction of or release from any claim or cause of action against Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, RCRA, other statutes, or common law, including, but not limited to, any claims of the United States for costs, damages and interest under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a), or Section 7003 of RCRA, 42 U.S.C. § 6973.

XII. MODIFICATION, AMENDMENT, DEVIATION AND ADDITIONAL ACTION

A. Modification to a plan or schedule or the SOW may be made in writing by the OSC or at the OSC's oral direction. If the OSC makes an oral modification, it will be memorialized later in writing; however, the effective date of the modification shall be the date of the OSC's oral direction. The rest of this Order, or any other portion thereof, may be modified by amendment issued by the Director, Office of Environmental Cleanup, EPA, Region 10.

B. If Respondents seek permission to deviate from a plan or schedule or the SOW, Respondents shall submit a written request to EPA, for review and approval, outlining the proposed deviation and the reasons therefore. No informal advice, guidance, suggestion or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by Respondents shall relieve Respondents of their obligations to obtain formal approval as may be required by this Order and to comply with all requirements of this Order.

C. If EPA determines that additional action is necessary to protect the public health or welfare or the environment, EPA may require the performance of such action by Respondents under an amendment to this Order or in any other authorized manner.

XIII. NOTICE OF COMPLETION

Following review of the Final Report, if EPA determines that the Work has been performed in accordance with this Order, with the exception of any continuing obligations required by this Order, EPA will so notify Respondents. If EPA determines that the Work has not been completed in accordance with this Order, EPA will so notify Respondents and provide a list of the deficiencies. Respondents shall implement the Work deemed deficient by EPA in accordance

with the schedule provided by EPA. Respondents shall then provide a modified Final Report to EPA. The failure of Respondents to implement the Work shall be a violation of this Order.

XIV. ADMINISTRATIVE RECORD

The administrative record supporting this Order is available for review at the EPA office located at 1200 Sixth Avenue in Seattle, Washington. Arrangements to review the administrative record may be made by contacting Richard D. Mednick, Associate Regional Counsel for EPA, at telephone number (206) 553-1797 or electronic mail address "mednick.richard@epa.gov".

XV. INSURANCE

At least **10 days** prior to commencing any on-Site activities under this Order, Respondents shall secure, and shall maintain for the duration of the on-Site activities, comprehensive general liability insurance and automobile insurance with limits of **$1,000,000**, combined single limit. Within this same time period, Respondents shall provide EPA with certificates of such insurance and a copy of each insurance policy. If Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then Respondents need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XVI. FINANCIAL ASSURANCE

A. Within **30 days** after the Effective Date, Respondents shall establish and maintain financial security for the benefit of EPA in the amount of **$5,000,000** in one or more of the following forms, in order to secure the full and final completion of the Work by Respondents:

1. a security bond unconditionally guaranteeing payment and/or performance of the Work;

2. one of more irrevocable letters of credit, payable to or at the direction of EPA, issued by financial institution(s) acceptable in all respects to EPA;

3. a trust fund administered by a trustee acceptable in all respects to EPA;

4. a policy of insurance issued by an insurance carrier acceptable in all respects to EPA, which ensures the payment and/or performance of the Work;

5. a written guarantee to pay for or perform the Work provided by one or more parent companies of Respondents, or by one or more unrelated companies that have a substantial business relationship with at least one of Respondents; including a demonstrations that any such guarantor company satisfies the financial test requirements of 40 C.F.R. § 264.143(f); and/or

6. a demonstration of sufficient financial resources to pay for the Work made by one or more of Respondents, which shall consist of a demonstration that any such Respondent satisfies the requirements of 40 C.F.R. § 264.143(f).

B. Any and all financial assurance instruments provided pursuant to this Section shall be in a form and substance satisfactory to EPA. In the event that EPA determines any time that the financial assurances provided pursuant to this Section (including, without limitations, the instrument(s) evidencing such assurances) 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 above. In addition, if at any time EPA notifies Respondents that the anticipated cost of completing the Work has increased, then, within **30 days** of such notification, Respondents shall obtain and present to EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Respondents' inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Order.

C. If Respondents seek to ensure completion of the Work through a guarantee as specified in Paragraphs A.5 and A.6 above, Respondents shall: (1) demonstrate to EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. § 264.143(f); and (2) resubmit sworn statements conveying the information required by 40 C.F.R. § 264.143(f). For purpose of this Order, wherever 40 C.F.R. § 264.143(f) references "sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates," the dollar amount to be used in the relevant financial test calculations shall be the current cost estimate of **$5,000,000** for the Work at the Site plus any federal environmental obligations financially assured by the relevant Respondent or guarantor to EPA by means of passing a financial test.

D. 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 A of this Section, Respondents may 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, but may reduce the amount of the security only if they receive written approval to do so from EPA.

E. Respondents may change the form of financial assurance provided under this Section at any time, upon notice to and prior written approval of EPA, provided that EPA determines that the new form of assurance meets the requirements of this Section.

XVII. APPENDICES

The following Appendices are attached to this Order and incorporated by this reference herein:

Appendix A = Site Diagram
Appendix B = Statement of Work

XVIII. SEVERABILITY

If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, Respondents shall

remain bound to comply with all provisions of this Order not invalidated or determined to be subject to a sufficient cause defense by the court's order.

XIX. OPPORTUNITY TO CONFER

A. Respondents have **5 days** after the date of issuance of this Order to request a conference with EPA for the purpose of presenting information or comments regarding this Order. To make such a request, Respondents must notify Richard D. Mednick, Associate Regional Counsel, EPA, Region 10, at telephone number (206) 553-1797, or electronic mail address "mednick.richard@epa.gov." If Respondents make a request as outlined above, Respondents shall have up to **10 days** after the date of issuance of this Order to participate in a conference with EPA.

B. A conference under this Section may be held by means of an in-person meeting at the EPA office in Seattle, telephone, or telephonic video conferencing, if such equipment is available and compatible as between EPA and Respondents, or by a combination of one or more of these options. During a conference held under this Section, Respondents may appear in person and/or be represented by an attorney or other person, and may present information, arguments or comments regarding this Order, including but not limited to the appropriateness of its terms and applicability to Respondents. The conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not provide a right to seek review of this Order.

C. Within **3 days** following a conference held in accordance with this Section, Respondents shall provide EPA, in writing, the information, arguments and comments presented by Respondents during the conference. If no such conference is held, Respondents may submit to EPA, in writing, any information, arguments, or comments regarding this Order within **13 days** after the date of issuance of this Order.

XX. EFFECTIVE DATE

This Order shall be effective **15 days** after the date of issuance unless it is revised by EPA. Should EPA make any revision to this Order as a result of the information, arguments or comments presented by Respondents under Section XIX above, or for any other reason, EPA will so inform Respondents and provide Respondents with the revision to the Order. Should the Order be so revised by EPA, the effective date of this Order will be **20 days** after the date of issuance or as may otherwise be specified by EPA in the revision to the Order.

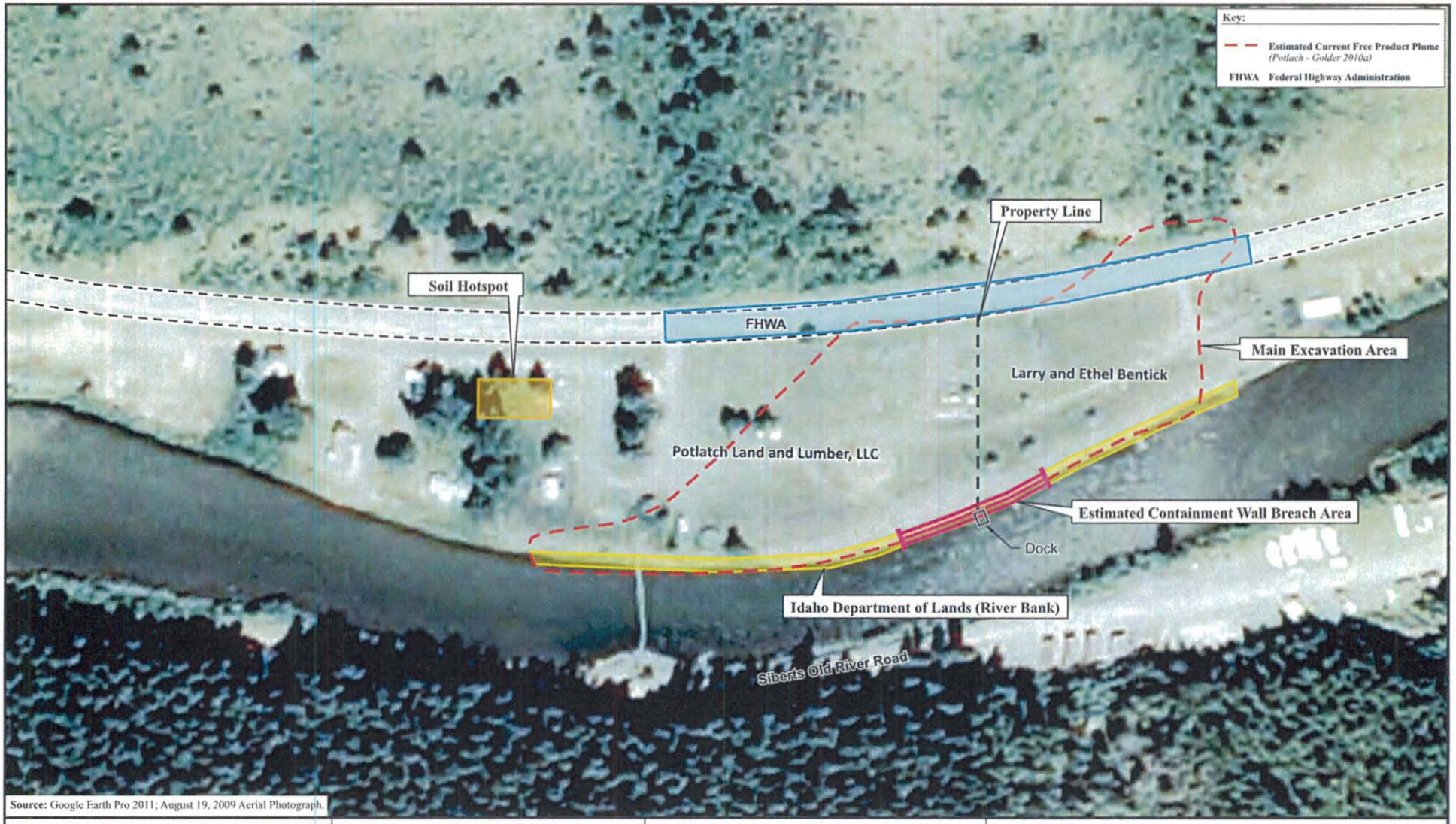
XXI. NOTICE OF INTENT TO COMPLY

Within **3 days** after the Effective Date, Respondents shall provide notice to EPA of the irrevocable intent of Respondents to comply with this Order. Said notice shall be made by contacting, in writing, the OSC. The failure of Respondents to provide such notice within this time period shall be a violation of this Order.

IT IS SO ORDERED

BY: _____
Daniel D. Opalski, Director
Office of Environmental Cleanup
Region 10
U.S. Environmental Protection Agency

ISSUANCE DATE: 4/12/2012



Source: Google Earth Pro 2011; August 19, 2009 Aerial Photograph.

ecology and environment, inc.
Global Specialists in the Environment
Seattle, Washington

0 112.5 225
Approximate Scale in Feet

AVERY LANDING SITE
Avery, Idaho

SITE DIAGRAM

Date:	Drawn by:	
3/21/12	AES	10:START-3\08050006\site diagram

Appendix A

STATEMENT OF WORK
AVERY LANDING REMOVAL ACTION

I. INTRODUCTION

This Statement of Work (SOW) describes the approach for the removal action to be completed at the Avery Landing Site (Site) for those portions of the Site which are owned by Potlatch Land and Lumber, LLC (PLL) and the Idaho Department of Lands. The Site is a former railroad light maintenance and refueling facility located near Avery, Shoshone County, Idaho. The removal action is expected to be completed during the 2012 field season.

This SOW is prepared in connection with a Unilateral Administrative Order (Order) issued by the U.S. Environmental Protection Agency (EPA) to PLL, Potlatch Corporation and Potlatch Forest Products Corporation (Respondents). All of the work as set forth in this SOW shall be performed by Respondents with EPA overseeing field activities and reviewing work plans, data, and reports.

The work to be completed by Respondents under this SOW shall include preparation and delivery of the following documents:

TABLE 1: REMOVAL ACTION TASKS

Task Number	Task Title	Time to Complete
1	Submit Removal Action Work Plan, including all subordinate plans and supporting attachments	**20 days** after effective date of Order
2	Conduct Removal Action, including the excavation, transportation, and disposal of soil contaminated with hazardous substances and oil	Begin **7 days** after EPA completes cleanup of those portions of the Site owned by the United States and Larry and Ethel Bentcik
3	Submit draft Removal Action Report	Within **60 days** of completion of the Removal Action
4	Submit final Removal Action Report	Within **30 days** of receipt of EPA comments on draft Removal Action Report

2.0 REMOVAL ACTION TASKS

The Removal Action tasks are separately described below.

2.1 Task 1: Submit Removal Action Work Plan and Other Site-Specific Technical Plans

Respondents shall develop a Work Plan that addresses and describes the tasks to complete the Removal Action. The Work Plan must address the following:

- Statement of purpose;
- Removal action scope and description including area(s) and quantities of contaminated materials to be removed;
- Project management and organization including roles and responsibilities of key participants involved in the Removal Action;
- Project schedule identifying task and deliverable start and completion dates, including archaeological and historical evaluation activities;
- Removal action approach and design considerations including strategy for coordination and transition between EPA and Respondents cleanup actions and phasing between key project elements such as excavation and backill;
- Removal action implementation including methods and sequence for the work and monitoring, inspections, and tests;
- Removal Action completion activities; and
- Removal Action Report.

In addition to the Work Plan, the following site-specific technical plans must be submitted:

- Health and Safety Plan
- Quality Assurance Project Plan including a field sampling plan
- Contingency Plan
- Water Treatment and Disposal Plan
- Transportation and Off-Site Disposal Plan
- Best Management Practices Plan including erosion and sediment control and "Greening" practices

The Removal Action Work Plan, including all supporting plans and documents, shall be submitted to EPA in accordance with the schedule in Table 1 above. A total of 3 copies and an electronic copy on CD ROM of the Work Plan shall be submitted to:

Earl Liverman
Federal On-Scene Coordinator
US Environmental Protection Agency
Coeur d'Alene Field Office
1910 Northwest Boulevard, Suite 208
Coeur d'Alene, ID 83814

2.1.1 Task 1: Work Plan

Respondents shall develop a Work Plan that describes its proposed approach for the Work Plan as described above and discussed below.

2.1.2 Task 1: Project Management and Organization

Project management and organization shall identify all key personnel involved in the Removal Action and their responsibilities. At the minimum, a Project Coordinator with appropriate experience and qualifications, as demonstrated by a statement of qualifications, shall be identified. The Project Coordinator shall be responsible for the administration of all Site activities and shall ensure that work is conducted in a safe manner and in conformance with all applicable safety and environmental laws and regulations. The Project Coordinator shall also be available to be on-Site whenever work is being conducted or at the request of EPA. Specific personnel do not need to be identified for interchangeable roles such as various types of labor; however the number of individuals to be involved shall be estimated to the extent practicable.

This section shall also identify all vendors and/or contractors that are expected to be used during the course of the Removal Action. Personnel and/or facilities must possess the necessary licensing, certifications, inspections, insurance, etc. as required by applicable regulation.

2.1.3 Task 1: Project Schedule

A schedule that complies with Table 1 shall be developed and adhered to. The schedule shall identify all major task and deliverable start and completion dates. Prior to the initiation of the project, potential causes of project delays shall be identified through collaboration with EPA so that preventative measures may be taken in advance. Any tasks that rely on the conclusion of a previous task must also be identified. For example, prior to the disposal of a waste stream, the receiving disposal facility must approve the waste profile, and Respondents must provide any Site sample(s) and/or analytical data as required by the receiving disposal facility. Identifying such related tasks will help prevent delays by preparing for each step at the appropriate time. Any deviations from the schedule shall be documented and, except in the case of emergencies, approved by EPA in advance.

Respondents shall also submit weekly progress reports to EPA throughout the duration of the project that substantiate that the cleanup work conforms to the EPA approved Work Plan.

2.1.4 Task 1: Personnel Health and Safety Plan

A Health and Safety Plan shall be submitted to EPA that is compliant with OSHA regulations. The Health and Safety Plan shall identify physical and chemical hazards that workers may encounter at the Site, identify how the safety of Site personnel will be ensured, and shall name a qualified Site safety officer. The Health and Safety Plan shall specifically identify any chemicals or compounds that may be dangerous, toxic or otherwise harmful to Site personal. The plan shall also identify any personal protective equipment that personnel shall wear during different Site tasks, including specific materials or properties or materials necessary to ensure appropriate protection. Workers handling hazardous materials must be HAZWOPER-trained with current re-certification cards. The proper safety equipment and instrumentation must be on Site during all Removal Action activities.

2.1.5 Task 1: Quality Assurance Project Plan

A Quality Assurance Project Plan shall be prepared in accordance with the elements found in EPA Requirements for Quality Assurance Plans (EPA QA/R-5).

2.1.6 Task 1: Contingency Plan

A Contingency Plan shall be submitted to EPA that identifies the measures that shall be put in place during the Removal Action that are designed to protect public health and welfare and the environment in the event of an accident or emergency. The following is a preliminary list of items that shall be be included in the contingency plan: name of person responsible for responding in the event of an emergency and spill control and countermeasures plan providing contingency measures for potential spills and discharges from materials handling or transportation. This plan shall describe the equipment that will be available on Site and the procedures to be used to clean up spilled material.

2.1.7 Task 1: Water Treatment and Disposal Plan

A Water Treatment and Disposal Plan shall be submitted to EPA that describes the water treatment discharge criteria and system design, as well as the start-up and operation monitoring procedures to be implemented to ensure the effectiveness of the treatment system in meeting applicable discharge criteria, and that the effluent will not be discharged until such criteria are met.

2.1.8 Task 1: Transportation and Disposal Plan

A Transportation and Disposal Plan shall be submitted to EPA and shall describe how the wastes will be characterized, profiled, packaged, and shipped for proper disposal. The transportation company and driver must be licensed for

transporting hazardous materials. The disposal facilities must be permitted, appropriate for the waste received, and certified in advance in accordance with the Order.

2.1.9 Task 1: Best Management Practices Plan

A Best Management Practices (BMPs) Plan shall be submitted and shall describe BMPs to be implemented to control for potential short-term cleanup-related impacts such as air emissions, erosion and sediment control, and noise levels, along with BMPs for achieving EPA's Region 10 Policy Clean and Green Policy.

2.2 Task 2: Conduct Removal Action

Implementation of the Removal Action shall begin in accordance with the schedule in Table 1 above. Respondents shall follow all procedures described in the EPA-approved Work Plan. Any proposal for deviation from procedures described in the approved Work Plan shall be communicated to EPA and approved by EPA in advance in accordance with the Order. No later than 48 hours before initial commencement of field work, Respondents shall notify EPA by telephone and confirm the date and time field work will begin.

2.3 Task 3: Submit draft Removal Action Report

Respondents shall complete and submit the draft Removal Action Report within 60 days of completion of the Removal Action. At a minimum, the draft Removal Action Report shall include a chronology and description of all removal activities as conducted; data tables of all samples collected compared to appropriate clean up levels; maps, figures, and photographs needed to illustrate the work completed; and copies of the uniform hazardous waste manifests and certificates of disposal. A total of 3 copies and an electronic copy on CD ROM of the draft Removal Action Report shall be sent to:

Earl Liverman
Federal On-Scene Coordinator
US Environmental Protection Agency
Coeur d'Alene Field Office
1910 Northwest Boulevard, Suite 208
Coeur d'Alene, ID 83814

2.4 Task 4: Submit final Removal Action Report

The draft Removal Action Report shall be submitted to EPA for review and approval in accordance with the Order. The final Removal Action Report shall be submitted to EPA no later than 30 days after receipt of EPA's comments on the

draft Removal Action Report. A total of 3 copies and an electronic copy on CD ROM of the final Removal Action Report shall be submitted to:

Earl Liverman
Federal On-Scene Coordinator
US Environmental Protection Agency
Coeur d'Alene Field Office
1910 Northwest Boulevard, Suite 208
Coeur d'Alene, ID 83814