UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 10

IN THE MATTER OF:	UNILATERAL ADMINISTRATIVE ORDER FOR REMOVAL ACTION AND INFORMATION REQUEST
Queen Property, Absorbent Technologies Site, located in Albany, Linn County, Oregon	U.S. EPA Region 10 Docket No. CERCLA-10-2014-0067
David L. Ellis, Pamela L. Ellis, and Farouk H. Al-Hadi, Respondents	Proceeding Under Section 104(e) and 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9604(e), 9606(a).

I. JURISDICTION AND GENERAL PROVISIONS

A. This Unilateral Administrative Order for Removal Action and Information Request ("Order") is issued pursuant to authority vested in the President of the United States by Sections 104(e) and 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §§ 9604(e) & 9606(a). These authorities have been delegated to the Administrator of the United States Environmental Protection Agency, or the EPA, and further delegated to the Regional Administrators of the EPA, the Director of the Environmental Cleanup Office of the EPA Region 10, and the Emergency Management Program Manager, EPA Region 10.

B. This Order pertains to the property located at 140 Queen Avenue SW, in Albany, Oregon (the "Queen Property"). This Order is issued to David L. Ellis, Pamela L. Ellis, and Farouk H. Al Hadi, as owners or former owners of the Queen Property, referred to collectively 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 at the Queen Property.

D. The EPA has notified the State of Oregon ("State") of this action in conformance with Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

II. PARTIES BOUND

A. This Order applies to and is binding upon Respondents as well as 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, or in applicable regulations promulgated under CERCLA, and shall have the meaning assigned to such terms in those laws and regulations. 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 Absorbent Technologies site, Albany, Linn County, Oregon," issued by the EPA on November 6, 2013, setting forth the removal action selected by the EPA for the Absorbent Technologies Site, and including all attachments and amendments 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 XVIII.

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

F. "The 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 Action and Information Request and all attachments hereto. In the event of conflict between this Order and any attachment, this Order shall control.

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

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

L. "Respondents" shall mean David L. Ellis, Pamela L. Ellis, and Farouk H. Al-Hadi, as individuals and together as tenants-in-common.

M. "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 the 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.

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

O. "Queen Property" shall mean the Absorbent Technologies facility located at 140 Queen Avenue SW in Albany, Linn County, Oregon.

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

Q. "Work" shall mean all activities Respondents are required to perform under this Order to implement the removal action set forth in the Action Memorandum and as further defined by Paragraph VI.D of this Order and the Work Plan.

R. "Work Plan" shall mean the document developed and approved pursuant to Paragraph VI.E of this Order, 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 the EPA:

A. Queen Property is located in Albany, Linn County, Oregon, at 140 Queen Avenue SW. The Queen Property is located in a mixed use area with a 400-person industrial facility to the west and residential housing directly to the east.

B. The Queen Property was formerly operated by Absorbent Technologies, Inc. (ATI). In March 2013, ATI filed for Chapter 11 bankruptcy protection. On or about October 11, 2013, ATI closed its facilities including the Queen Property. On October 23, 2013, ATI's motion to convert its bankruptcy proceeding from Chapter 11 reorganization to Chapter 7 dissolution was granted by the bankruptcy court.

C. On October 15, 2013, the City of Albany requested the EPA's assistance with disposal of hazardous substances abandoned ATI's facilities in Albany, including the Queen Property. The EPA responded to this request, arriving at the Queen Property on the same day and initiating efforts to identify and dispose of hazardous substances.

D. Hazardous substances found by the EPA at the Queen Property included acrylonitrile in a 20,000-gallon tank. Additional acrylonitrile was found in piping and other industrial equipment at the Queen Property. Acrylonitrile can be highly unstable and is considered hazardous due to flammability and toxicity characteristics. It can also degrade into hydrogen cyanide gas in a fire above 800 degrees Fahrenheit. Direct exposure to acrylonitrile may result headaches, eye and skin irritation, nausea, vomiting, dizziness, brain tumors, and asphyxiation.

E. Other hazardous substances initially found at the Queen Property included hydrogen cyanide, potassium hydroxide, sulfuric acid, phosphoric acid, methanol, arsenic, cadmium, lead, and mercury. Hydrogen cyanide gas, for example, was found in the headspace of liquid waste totes at the Queen Property. Direct exposure to hydrogen cyanide may result in health impacts including nausea, headaches, and asphyxiation. Direct exposure to potassium hydroxide may result in eye, skin, and respiratory irritation as well as skin burn, vomiting, and diarrhea.

F. Due to risk factors including the immediate threat of fire or explosion posed by the acrylonitrile, the EPA conducted an emergency response at the Queen Property, which began on October 15, 2013, and was completed on or about October 21, 2013. This action consisted primarily of draining the 20,000-gallon acrylonitrile tank on the Queen Property and arranging for the safe transport and proper disposal of this material.

G. On November 6, 2013, after completing the emergency response, the EPA signed the Action Memorandum, which selected additional removal actions the EPA deemed necessary to address environmental and human health risks posed by conditions at the Queen Property and a related ATI facility located at 2830 Ferry Street SW in Albany, Oregon (collectively, the "Absorbent Technologies Site"). As described by the Action Memorandum, the remaining work at the Absorbent Technologies Site generally included the following: "pumping and draining of chemicals from tanks, piping, and other industrial equipment; … flushing of pipes and other industrial equipment to remove chemical residues; proper disposal of containerized wastes and contaminated media; and a final assessment and reporting to confirm that remaining industrial equipment and properties at the Site are clean and safe for anticipated reuse."

H. The remaining work identified in the Action Memorandum was undertaken voluntarily by private parties, including the Respondents as current or former owners of the Queen Property. The work by these parties was to have been carried out consistent with a work plan approved by the EPA and dated November 8, 2013. Based in part on representations from Respondents and their contractors, the EPA provided in writing on January 10, 2014, that "all on-Site work has been completed."

I. On February 12, 2014, EPA On-Scene Coordinator Dan Heister received information from Jonathan Sheckard (River City Environmental) that a contractor conducting salvage operations at the Queen Property on February 11, 2014, opened a valve marked potassium hydroxide and approximately five gallons of material was released to the ground. Sheckard described the liquid looking like "rusty water." When Heister arrived on site the next day the material had been washed away. Heister spoke with the salvage crew on site who described the material as green in color and bubbling when discharged. They also said that when the material came out, Sheckard quickly directed them to "get back." Field sampling of the material was not possible because it had been washed away the day before. The crew was certain that the discharge from the valve was product and not "rusty water," suggesting the pipe had not been properly drained and rinsed as required by the Action Memorandum and approved work plan.

J. On February 20, 2014, OSC Heister visited the Queen Property to observe the continuing salvage operations. At that time, OSC Heister received information indicating that at least two workers for Cascade Metal Recycling had sustained physical injuries while engaged in the salvage operation at the Queen Property. The reported injuries included an apparent chemical burn and nausea and vomiting following inhalation of a noxious substance. Both injuries are consistent with exposures to hazardous substances found at the Queen Property, including acrylonitrile (vomiting), potassium hydroxide (vomiting, skin burns), and phosphoric acid (skin burns).

K. Upon interviewing workers at the Queen Property on February 20, 2014, OSC Heister learned that workers were uncertain whether the pipes and other industrial equipment at the Queen Property had been properly flushed or rinsed to ensure the removal of all hazardous substances including acrylonitrile, acids, and potassium hydroxide. Field analysis of chemicals released from pipes and other equipment through salvage operations at the Queen Property indicated the presence of strong acids and bases, consistent with the presence of hazardous substances such as phosphoric acid and potassium hydroxide.

L. As a result of the injuries and other information gathered from the Queen Property, and contrary to the earlier representations from Respondents and their contractors, the EPA has reason to believe that the work at the Queen Property identified in the Action Memorandum was not conducted fully or properly in order to ensure the protection of human health and the environment. In particular, the EPA has reason to believe that piping and other industrial equipment at the Queen Property still contains hazardous substances, such as potassium hydroxide and phosphoric acid, that could be released through continued

salvage operations and cause further injuries to salvage workers. It is also possible that other individuals could become injured if exposed to contaminated equipment and materials removed from the Queen Property through salvage operations and transported to other locations. It is further possible that individuals in the residential areas directly east of the Queen Property could be injured through fumes or other releases of hazardous substances remaining at the Queen Property.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

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

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

B. The contamination at the Queen Property includes one or more "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

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

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 substances at the Queen Property as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

F. The conditions at the Queen Property 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).

G. 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 and the NCP.

H. There is a need to gather information in order to determine the need for additional response action, or to choose or take additional response actions at the Queen Property, or otherwise to enforce the provisions of CERCLA.

VI. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law and Determinations, and upon the Administrative Record for the Queen Property, the 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. Cease and Desist

As of the Effective Date of this Order, all salvage, recycling, and/or other activities with the potential for causing a release of hazardous substances at the Queen Property shall cease and remain so until the Respondents receive further direction in writing by the OSC. In addition, no work under Paragraph D (Removal Activities) of this Section shall proceed without further direction and approval by the OSC.

B. Project Coordinator

Respondents shall designate a Project Coordinator who shall be responsible for administration of the Work. Within **5 days** after the Effective Date, Respondents shall provide the EPA with the name, electronic and mailing addresses, telephone number, and qualifications of the designated Project Coordinator. If the 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 the 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 the EPA. Receipt by the Project Coordinator of any notice or communication from the EPA relating to this Order shall constitute receipt by Respondents.

C. Contractors and Subcontractors

Respondents shall retain a primary contractor, as well as other contractors and subcontractors as necessary, to perform the Work. Within **5 days** of the Effective Date, Respondents shall notify the 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 "The EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01-002, March 2001). If the EPA disapproves of the primary contractor or any other contractor or subcontractor retained by Respondents, within **5 days** of this disapproval, Respondents shall retain a new primary contractor, contractor or subcontractor, as the case may be, and provide the EPA with the name and qualifications of this newly retained individual or entity.

D. Removal Activities

Unless otherwise directed by the OSC, Respondents shall, at a minimum, perform the following removal activities: (1) rinsing of all piping and industrial equipment remaining intact sufficient to ensure removal of all hazardous substances contained therein; (2) collection and

analysis of rinsate liquids; (3) identification and examination of all piping and other industrial equipment already disconnected from industrial systems at the Queen Property; (4) rinsing and re-examination of all disconnected piping and other industrial equipment at the Queen Property to ensure all such items are safe for transport, recycling, or other reuse; (5) sampling, analysis, and removal of all hazardous substances spilled onto floors, equipment, or any paved or unpaved surface, including the ground; (6) sampling, analysis, removal, and proper disposal of any remaining containers of waste.

E. Work Plan and Schedule

Within **7 days** after the Effective Date, Respondent shall provide the EPA, for review and approval, a draft Work Plan and Schedule for performance of the Work. The EPA may approve, disapprove, require revisions to, or modify the draft Work Plan and Schedule. If the EPA notifies Respondents of revisions required thereto, Respondents shall provide the EPA with a draft Work Plan and Schedule which incorporates these revisions within **7 days** of this notification. Upon notice of approval or modification by the EPA, Respondents shall implement the Work Plan in accordance with the Schedule. The Work Plan and Schedule may also be subsequently modified by the EPA and Respondents shall perform in accordance with any such modifications.

F. Health and Safety Plan

Within **7 days** after the Effective Date, Respondents shall submit to the 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 the 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 the EPA, Respondents shall provide the EPA with a final H&S Plan incorporating therein all changes recommended by the EPA. Thereafter, Respondents shall implement the final H&S Plan during performance of the Work.

G. Quality Assurance and Sampling

1. Within **7 days** after the Effective Date, Respondents shall provided the 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 the EPA, Respondents shall provide the EPA with a final QA/QC/SA Plan incorporating therein all changes recommended by the 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 the 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 the EPA guidance. Respondents shall follow the following documents as appropriate as guidance for QA/QC and sampling: (a) "The 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) "The 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 No. 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 the EPA, Respondents shall have a laboratory analyze samples submitted by the EPA for QA monitoring. Respondents shall provide the 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 "The EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001).

4. Upon request by the EPA, Respondents shall allow the 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 the EPA not less than **2 days** in advance of any sample collection activity. The 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.

H. Reporting

Respondents shall submit a written progress report to the EPA every **7th day** after approval by the EPA of the Work Plan until termination of this Order, unless otherwise directed by the 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.

I. Records, Data, Documentation and Information

1. Respondents shall provide the EPA with access, at all reasonable times, to all records and documentation related to conditions at the Queen Property and the Work. Further, within **3 days** of receipt by Respondents, Respondents shall provide the 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 Queen Property.

2. Respondents shall preserve all documents and information relating to the Work, or relating to hazardous substances found on or released or discharged from the Queen Property, 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 the EPA that such documents and information are available to the EPA for inspection, and shall, upon request, provide the originals or copies of such documents and information to the 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 the 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. The 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 the EPA, the 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 Queen Property 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. 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.

J. 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 the EPA, with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3) and 40 C.F.R. § 300.400.

K. Access to Property

1. Respondents shall provide employees, contractors, agents, consultants, designees and representatives of the EPA with access to the Queen Property 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 the 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, the EPA may assist Respondents in gaining access, to the extent necessary to effectuate the Work, using such means as the EPA deems appropriate. The 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.

L. Transfer of Interest

Respondents shall, at least **15 days** prior to the transfer of any interest in real property at the Queen Property, provide written notice of this Order to the transferee, and written notice to the 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 the EPA and its representatives access to the property of the transferee at the Queen Property.

M. 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 the EPA, attain applicable or relevant and appropriate requirements under federal environmental, state environmental, or facility siting laws.

N. 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 Queen Property 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. Respondents shall submit a written report to the 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, 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.

O. Removal Action Report

1. Within **30 days** after completion of all on-Site cleanup activities required under this Order, Respondents shall provide the 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 Queen Property; (c) a discussion of removal and disposal options considered for the materials removed from the Queen Property; (d) a listing of the ultimate destinations of the materials removed from the Queen Property; (e) a presentation of the analytical results of all sampling and analyses performed by Respondents; (f) a description of any contamination remaining at the Queen Property; (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 the EPA on the draft Removal Action Report, Respondents shall provide the EPA with a final Removal Action Report incorporating therein all changes recommended by the 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.

P. Information Request

1. Within 14 days of the Effective Date of this Order, in connection with all removal actions and salvage operations conducted at the Queen Property between November 6, 2013, and February 20, 2014, Respondents shall provide to the EPA—

a. copies of all work plans, work directives, field notes, field logs, manifests, pictures, video recordings, tape recordings, laboratory sample results, invoices, bills of lading, as well as volumetric estimates of wastewaters generated and disposed of as part of the removal and salvage operations; and
b. copies of all emails, correspondence, notes of conversations, contracts or other agreements, payment records, demands for payment, or agreements for resolution of payment disputes entered with or received by Respondents from River City Environmental Inc., NRC, and Cascade Metal Recycling.

2. The information provided in response to this request shall be accompanied by a signed and dated declaration by the individual submitting the response, and shall include the following statement: "I

declare under penalty of perjury that I am authorized to respond on behalf of Respondents and that the foregoing is complete, true, and correct."

3. The information provided in response to this request shall be addressed as follows:

Grechen Schmidt
U.S. Environmental Protection Agency, Region 10
1200 Sixth Ave., Suite 900, ORC-158
Seattle, Washington 98101

VII. ON-SCENE COORDINATOR

A. The EPA has designated Dan Heister as the On-Scene Coordinator (OSC) for the Queen Property. 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 the EPA or any other party at the Queen Property. Absence of the OSC from the Queen Property shall not be cause for stoppage of work unless specifically directed by the OSC.

B. The OSC contact information is as follows:

Dan Heister
Federal On-Scene Coordinator
U.S. EPA Oregon Operations Office
805 SW Broadway, Suite 500
Portland, Oregon 97205
Telephone: (503) 326-6869
Cell: (206) 605-6634
Email: heister.dan@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, the EPA may assume performance of any or all portions of the Work, and Respondents shall discontinue any or all aspects of the Work as may be directed by the OSC.

D. If the EPA changes the designated OSC for the Queen Property, 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. 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, the 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 the 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 10MT 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 "Absorbent Technologies Site," the Site/Spill ID Number 10MT, 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 the 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 Queen Property, 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 the 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. The 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 Queen Property.

XI. OTHER CLAIMS

By issuance of this Order, 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. The United States or the 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 or 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).

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 or the Emergency Management Program Manager, 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 the EPA, for review and approval, outlining the proposed deviation and the reasons therefore. No informal advice, guidance, suggestion or comment by the 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 the EPA determines that additional action is necessary to protect the public health or welfare or the environment, the 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, the EPA will so notify Respondents. If the EPA determines that the Work has not been completed in accordance with this Order, the EPA will so notify Respondents and provide a list of the deficiencies. Respondents shall implement the Work deemed deficient by the EPA in accordance with the schedule provided by the EPA. Respondents shall then provide a modified Final Report to the 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 will be 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 Cliff Villa, Assistant Regional Counsel for EPA, at (206) 553-1185 or via email at villa.clifford@epa.gov.

XV. INSURANCE

At least **5 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 the EPA with certificates of such insurance and a copy of each insurance policy. If Respondents demonstrate by evidence satisfactory to the 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. 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.

XVII. OPPORTUNITY TO CONFER

A. Respondents have **24 hours** after receiving this Order, electronically or otherwise, to request a conference with the EPA for the purpose of presenting information or comments regarding this Order. To make such a request, Respondents must notify Cliff Villa, Assistant Regional Counsel, EPA Region 10, at (206) 553-1185, or via email at villa.clifford@epa.gov. If Respondents make a request as outlined above, Respondents shall have up to **3 days** after the date of issuance of this Order to participate in a conference with the 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 the EPA, in writing, the information, arguments and comments presented by Respondents during the conference. If no such conference is held, Respondents may submit to the EPA, in writing, any information, arguments, or comments regarding this Order within **7 days** after the date of issuance of this Order.

XVIII. EFFECTIVE DATE

This Order shall be effective **3 days** after the date of issuance, unless Respondents request a conference pursuant to Section XVII. If a conference is requested pursuant to Section XVII, this Order shall be effective 4 days after the conference, unless the Order is otherwise revised by the EPA. Should EPA make any revision to this Order as a result of the information, arguments or comments presented by Respondents under Section XVII above, or for any other reason, the EPA will so inform Respondents and provide Respondents with the revision to the Order. Should the Order be so revised by the EPA, the Effective Date of this Order will be as specified by the EPA in the revision to the Order.

XIX. NOTICE OF INTENT TO COMPLY

Within **24 hours** after the Effective Date, Respondents shall provide notice to the EPA of the irrevocable intent of Respondents to comply with this Order. Said notice shall be made by signing the attached form and returning it immediately via email at villa.clifford@epa.gov. The failure of Respondents to provide such notice within this time period shall be a violation of this Order.

IT IS SO ORDERED

BY: _____

Chris Field
Emergency Management Program Manager
U.S. EPA Region 10

ISSUANCE DATE: 2/25/14

NOTICE OF INTENT TO COMPLY WITH UNILATERAL ADMINISTRATIVE ORDER FOR REMOVAL ACTION AND INFORMATION REQUEST

CERCLA Docket No. 10-2014-0067

In accordance with Section XIX of the above-referenced Order, this letter provides Respondents' written notice of intent to comply fully with the Order. I understand that failure to comply with the full terms of the Order may result in the assessment of significant monetary penalties.

_____ _____

Name Title

_____

Date