

REGION V

289

IN THE MATTER OF: )  
 Alvin F. Laskin, an individual )  
 Poplar Oil Company, a Corporation )  
 Browning - Ferris Industries of )  
 Ohio, Inc., a Corporation )  
 Koppers Company, Inc., a Corporation )  
 Be-Kan, Inc., a Corporation )  
 TRW, Inc., a Corporation )  
 General Motors Company, a Corporation )  
 Rockwell International, Inc., a )  
 Corporation )  
 Union Carbide, a Corporation )  
 American Gage and Machine Company, )  
 a Corporation )  
 Respondents )

Amended  
 ADMINISTRATIVE ORDER

Docket No.

*Tia*  
*AIT*  
*MW*  
*DR*  
 7/15/85  
 9/1/85  
 9/1/85  
 2/1/86

EPA Region 5 Records Ctr.



222602

Proceeding under Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9606(a).

PREAMBLE

The following Administrative Order is issued on this date to:

Alvin F. Laskin  
 717 North Poplar Street  
 Jefferson, Ohio 43047

Poplar Oil Service  
 717 North Poplar Street  
 Jefferson, Ohio 43047

Browning - Ferris Industries  
 of Ohio, Inc.  
 P.O. Box 3151  
 Houston, Texas 77001

Koppers Company, Inc.  
 1401 Koppers Building  
 Pittsburgh, Pennsylvania 15219

Be-Kan, Inc.  
 477 Lexington  
 Painesville, Ohio 44061

TRW, Inc.  
 23500 Euclid Avenue  
 Cleveland, Ohio 44117

General Motors Company  
 3044 West Grand Blvd  
 Detroit, Michigan 48202

Rockwell International, Inc.  
 600 Grant Street  
 Pittsburgh, Pennsylvania 15219

Union Carbide  
 610 Ridgebury Road  
 Danbury, Connecticut 06817

American Gage and Machine Company  
 603 Dundee Road  
 Elyon, Illinois 60120

(Respondents), pursuant to the 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 delegated to the U.S. Environmental Protection Agency (U.S. EPA) by Executive Order No. 12316, August 26, 1981, 46 Federal Register 42237, and redelegated to the Regional Administrator by Delegation 14-14 issued April 1, 1984. Notice of Issuance of this Order has been given to the State of Ohio.

This Administrative Order requires the Respondents, and each of them, to develop plans to undertake removal activities at the Laskin/Poplar Oil site (the "Facility") located in Jefferson, Ohio, to abate an imminent and substantial endangerment arising from the release and/or threat of release of hazardous substances from the Facility.

#### DETERMINATION AND FINDINGS

1. The Facility is a 9-acre site located in northeastern Ohio within Jefferson Township in Ashtabula County, west of the Village of Jefferson. The Facility is in close proximity to a residential area, and is immediately adjacent to a public park, fairgrounds, and Cemetery Creek. Surface water and potentially groundwater from the site discharge to Cemetery Creek.
2. Respondent, Alvin F. Laskin, who has done business under the names of Laskin Greenhouse, Laskin Waste Oil, Poplar Oil Company, and others, is the owner and operator of a now inactive waste oil collection and road oiling business located at 717 North Poplar Street, Jefferson, Ohio. Records obtained from the Respondent indicate that he transported to, and accepted at, the Facility, hazardous substances, as defined in §101(14) of CERCLA, 42 U.S.C. §9601(14), for treatment or disposal.
3. Respondent, Poplar Oil Company, was established by Alvin Laskin in 1979 to engage in the collection of waste oils and other fluids for use as road oil and dust control agents and for brokerage to other waste oil dealers. Records obtained from Respondent, Alvin Laskin, indicate that Poplar Oil Company accepted at the Facility for treatment or disposal, hazardous substances as defined in §101(14) of CERCLA, 42 U.S.C. §9601(14).
4. Respondent, Browning - Ferris Industries, Inc., transported hazardous substances as defined in §101(14) of CERCLA, 42 U.S.C. §9601(14), and selected the Laskin/Poplar Oil site as the disposal site.
5. Respondent, Be-Kan, Inc., generated and caused to be transported to the Facility hazardous substances as defined in §101(14) of CERCLA, 42 U.S.C. §9601(14), of the type found at the Facility.

6. Respondent, Koppers Company; generated and caused to be transported to the Facility, hazardous substances, as defined in §101(14) of CERCLA, 42 U.S.C. §9601(14), of the type found at the Facility.
7. Respondent, TRW, Inc., generated and caused to be transported to the Facility hazardous substances, as defined in §101(14) of CERCLA, 42 U.S.C. §9601(14), of the type found at the Facility.
8. Respondent, General Motors Company, Inc., generated and caused to be transported to the Facility hazardous substances as defined in §101(14) of CERCLA, 42 U.S.C. §9601(14), of the type found at the Facility.
9. Respondent, Rockwell International, Inc., generated and caused to be transported to the Facility, hazardous substances, as defined in §101(14) of CERCLA, 42 U.S.C. §9601(14), of the type found at the Facility.
10. Respondent, Union Carbide, generated and caused to be transported to the Facility, hazardous substances, as defined in §101(14) of CERCLA, 42 U.S.C. §9601(14), of the type found at the Facility.
11. Respondent, American Gage and Machine Company, generated and caused to be transported to the Facility, hazardous substances, as defined in §101(14) of CERCLA, 42 U.S.C. §9601(14), of the type found at the Facility.
12. Approximately 800,000 gallons of contaminated sludge is stored at the Facility in about 33 tanks and four unlined in-ground pits. Chemical analyses of the sludges in all of the tanks and pits have not yet been performed. However, data available on some of the sludge has demonstrated the presence of the following hazardous substances:

Phenol	Pyrene
2,4-dimethylphenol	Crysene
Napthalene	Benzo(A)anthracene
Isophorone	Benzo(B and/or K)fluoranthene
Acenaphthylene	Benzo(A)pyrene
Acenaphthene	Ethyl methyl benzene
Fluorene	Trimethylbenzene
Phenanthrene	Benzofuran
Anthracene	PCBs
Fluoranthene	Lead

The concentrations of these substances range from 245 mg/kg to 19,433 mg/kg.

13. The PCBs, phenols, metals and other organic compounds found in the sludge are known to be toxic and/or carcinogenic to humans. Many of these compounds are polynuclear aromatic hydrocarbons (PAHs). As a class, PAHs are known to be toxic, mutagenic, teratogenic, and carcinogenic. Additionally, many of these substances may be toxic to animal and aquatic life.
14. Hazardous substances existing at the Facility may present an imminent and substantial endangerment to the public health or welfare or the environment. The most dangerous threat present at the Facility is the potential for release of the hazardous substances. Release could occur through several means.
  1. There is evidence that the sludges in the in-ground pits are in direct contact with groundwater. These pits are made of unlined cinder blocks, and the water level in the pits has been observed to rise without contribution from rain water. Continued storage of these substances in these pits may result in an increase in contamination of the aquifer beneath the Facility, as well as Cemetery Creek, into which the aquifer is believed to discharge. Additionally, rain water runoff can enter the pits through their covers causing the contents to overflow. Water has been observed flowing down hill from one pit to another and ultimately to the retention pond on-site (Pond 20). Significant quantities of oily material has been observed being transported by this water. This could increase the release of the hazardous substances to the ground and to Pond 20. Water from Pond 20 discharges to Cemetery Creek. Finally, deterioration of the tanks containing the contaminated sludge through corrosion, or deliberate or accidental action could result in the contained sludges leaking onto or into the ground. Because the site is located on the side of a bluff adjacent to Cemetery Creek, the potential for an additional spill into the creek exists. Cemetery Creek flows to Mill Creek and thus to the Grand River, which supplies drinking water to over 25,000 residents in Ashtabula County.

Past response actions have been necessary to address release of hazardous substances and to stabilize the site. Several times contaminated oil levels have built up in impoundments on-site which required action to prevent a breach of the impoundment walls and subsequent release to Cemetery Creek. Once action was necessary because the wall of one of the impoundments collapsed, resulting in a release of contaminated oil and sediment into the creek. Additionally, data collected during the Remedial Investigation (this report has not been finalized) has documented a release of hazardous substances from the Facility to the groundwater beneath the site and potentially to the sediment of Cemetery Creek. These released hazardous substances include those found in the sludges which remain on-site in the tanks and pits.

15. In order to protect public health and the environment, it is necessary that action be taken to contain and terminate the actual or threatened release of hazardous substances from the Facility into the environment. Additionally, consistent with the U.S. EPA policy on off-site response actions (50 FR 45933 (November 5, 1985)) and the National Contingency Plan (NCP), 40 CFR 300 (50 FR 47950 (November 20, 1985)), incineration has been determined to be the method of disposal to be most protective of public health and the environment. As stated in the above references, it is U.S. EPA's policy to pursue response actions that use treatment, reuse, or recycling over land disposal to the greatest extent practicable. In this case, the incineration of the material present on-site is consistent with the NCP. The anticipated cost of this method of disposal does not far exceed the cost of land disposal, and incineration provides substantially greater public health and environmental benefits.
16. Respondents, Browning-Ferris, Inc., Koppers Company, Be-Kan, Inc., and TRW, Inc., in 1985, during discussions on the implementation of a previous removal order, offered to conduct additional removal actions at the Facility. These actions included below ground tank and sludge removal. Upon subsequent inquiry into the status of a workplan for the additional work, the U.S. EPA was informed that an additional workplan would not be developed because the Respondents could not come to agreement on the additional work.
17. The removal activities identified in this Administrative Order as being necessary to protect human health and the environment can be logically separated into two phases; workplan development and workplan implementation. In an effort to ensure timely progress toward an abatement of the threats presented by this Facility, this Administrative Order will be limited to the development of the workplan. Following completion of the work required by this Administrative Order, the U.S. EPA may require that the Respondents named herein, and/or any additional Respondents the U.S. EPA may identify, implement the plans developed herein.

#### ORDER

Based upon the foregoing Determination and Findings, pursuant to Section 106(a) of CERCLA, 42 U.S.C. §9606(a), it is hereby Ordered that the following actions be undertaken at the Facility:

1. Respondents shall, within 30 calendar days of the effective date of this order, hire a consulting engineer and/or contractor to prepare all plans and conduct all work required in this Administrative Order.
2. Respondents shall, within 30 calendar days of hiring the contractor required above, submit to U.S. EPA a plan for sampling the sludges in the pits and tanks on-site, which will include analyzing for all U.S. EPA Contract Lab Program (CLP) Hazardous Substance List parameters. This plan shall include a Quality Assurance Project Plan (QAPP) to ensure appropriate sample analyses and a Site Health and Safety Plan to ensure adequate worker safety during the sampling activities.

3. Respondents shall, within one hundred and five (105) calendar days of approval of the sampling plan required above, submit to U.S. EPA a work plan to remove and incinerate the approximately 800,000 gallons of contaminated sludge, and any remaining oil and aqueous waste contained in the four (4) inground pits and all of the above and below ground metal tanks at the site and to demolish and dispose of all of the above and below ground metal tanks. This plan shall include at least the following elements:
- Site Health and Safety
  - Emergency and Contingency Plans
  - All data generated during sampling
  - Site Security and Project Administration
  - Steel Tank Sludge Removal and Incineration
  - Tank Cleaning, Demolition and Disposal
  - Pit Sludge Removal and Incineration
  - Securing Emptied Pits
  - Equipment and Personnel Decontamination
  - Transportation of Waste Material
  - Site Restoration and Demobilization
  - Reports
  - Schedule for work completion

Should the sampling conducted during the development of this workplan demonstrate, to the satisfaction of the U.S. EPA that the physical nature of the sampled material precludes incineration as a viable disposal method, the workplan shall include the development of other disposal options for that portion of the material that cannot be incinerated.

4. Respondents shall, during the conduct of and prior to completion of Orders 1, 2, and 3 above, develop and implement a plan to determine the spatial extent, both vertical and horizontal, of soil contamination caused by hazardous substances being stored in the inground pits on-site. The detail of sampling shall be sufficient to guide any future removal of soils from around the pits. This plan shall include a QAPP and Site Health and Safety Plan as required in Order 2, above.
5. In no event shall Respondents begin work at the site until the specifications are approved by U.S. EPA.
6. The site Health and Safety Plans developed pursuant to this Order shall be in accordance with U.S. EPA's guidance and protocol. After approval of the site health and Safety Plan by U.S. EPA representatives, Respondents shall implement the plan during all phases of activity at the Facility. Failure of the Respondents to properly implement all aspects of the site Health and Safety Plan shall be deemed to be a violation of the terms of this Administrative Order.

7. The plans developed according to this Administrative Order shall require that all materials removed from the Facility be disposed of in a manner consistent with Sections 3002, 3003, and 3004 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§6923 and 6924 and all other appropriate Federal, State and local requirements, as well as the U.S. EPA Off-Site Disposal Policy.
8. All instructions by the U.S. EPA On-Scene Coordinator or Remedial Project Manager in connection with work to be performed at the Facility consistent with the terms of this Administrative Order, and with the National Contingency Plan, 40 CFR Part 300, shall be binding upon the Respondents.
9. Respondents shall provide access to the Facility to U.S. EPA employees, contractors, agents, and consultants, as well as to representatives of the Ohio Environmental Protection Agency at all reasonable times, and shall permit such persons to be present and move freely in the area in order to conduct inspections, take samples, and to conduct other activities which U.S. EPA determines to be necessary.
10. Nothing contained in this Order shall affect any right, claim or cause of action that any party hereto has against parties not subject to this Order.
11. Nothing contained herein shall be construed to prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Administrative Order, or from taking other legal or equitable action as it deems appropriate and necessary, or from requiring the Respondents in the future to implement the work detailed in the plans developed in accordance with this Administrative Order or to perform additional activities pursuant to CERCLA, 42 U.S.C. §9601, et seq., or any other applicable law.
12. The provisions of this Administrative Order shall be binding on employees, agents, successors, and assigns of the parties.
13. This Administrative Order shall become effective on September 16, 1986.
14. Within three (3) calendar days of the effective date of this Administrative Order the Respondents shall provide notice in writing to U.S. EPA stating their intention to comply with the terms hereof. In the event any Respondent fails to provide such notice, said Respondents shall be deemed not to have complied with the terms of this Administrative Order.
15. On the effective date of this Administrative Order, the Respondents shall designate a Project Coordinator. This Project Coordinator shall be responsible for overseeing the implementation of this Administrative Order. To the maximum extent possible, communications between the Respondents and U.S. EPA and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Administrative Order shall be directed through this Project Coordinator.

16. All notices and reports submitted under the terms of this Administrative Order shall, unless otherwise specified, be sent by certified mail, return receipt requested, and addressed to the following:

Thomas R. Barriball  
Laskin/Poplar Project Coordinator  
Hazardous Waste Enforcement Branch  
United States Environmental  
Protection Agency (5HE-12)  
230 South Dearborn Street  
Chicago, Illinois 60604

#### ADDITIONAL WORK

The Respondents may, during the conduct of the work required by this Administrative Order, develop plans for performing additional removal or remedial work; such as removal of pit construction materials or contaminated soils; at the Facility. The U.S. EPA will evaluate proposals to perform additional work submitted in the form of a workplan. The Respondents may conduct such work only after the approval of the workplan by the U.S. EPA.

#### ACCESS TO ADMINISTRATIVE RECORDS

The Administrative Record supporting the above determinations and findings is available for review on weekdays between the hours of 8:00 a.m. and 5:00 p.m. in the Office of Regional Counsel, 16th Floor, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Please contact Mr. Jonathan McPhee, Assistant Regional Counsel, at (312) 866-5345 for review of the Administrative Record.

#### OPPORTUNITY TO CONFER

This Administrative Order is an amended version of the July 23, 1986 Administrative Order with the same Docket number. As such, it reflects discussions between the U.S. EPA and the Respondents held in accordance with the Opportunity to Confer provisions of the July 23, 1986 Administrative Order. Therefore, the Respondents' opportunity to confer is limited to that provided in the July 23, 1986 Administrative Order.

You are hereby placed on notice that U.S. EPA will take any action which may be necessary in the opinion of U.S. EPA for the protection of public health and welfare and the environment, and Respondents may be liable under Section 107(a) of CERCLA, 42 U.S.C. 9607(a), for the costs of those Government actions.

PENALTIES FOR NONCOMPLIANCE

Respondents are advised, pursuant to Section 106(b) of CERCLA, 42 U.S.C. §9606(b), that willful violation or subsequent failure or refusal to comply with this Order, or any portion thereof, may subject Respondents to a civil penalty of not more than \$5,000 per day for each day in which such violation occurs, or such failure to comply continues. Failure to comply with this Administrative Order, or any portion thereof, without sufficient cause may also subject Respondents to liability for punitive damages in an amount three times the amount of any cost incurred by the Government as a result of Respondents' failure to take proper action, pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. 9607(c)(3).

Witness my hand in the City of Chicago,  
State of Illinois, on this 16<sup>TH</sup>  
day of SEPTEMBER, 1986.

By:

Peter J. Adams (ACTING)  
Valdas V. Adams  
Regional Administrator  
United States Environmental Protection Agency  
REGION V