

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 5

IN THE MATTER OF:) Docket No.
)
WAUCONDA SAND AND GRAVEL SITE) ADMINISTRATIVE ORDER
) PURSUANT TO SECTION 106(a)
) OF THE COMPREHENSIVE
) ENVIRONMENTAL RESPONSE,
Respondents:) COMPENSATION, AND
) LIABILITY ACT OF 1980,
Basic Electronics Mfr. Co.) AS AMENDED, 42 U.S.C.
Browning-Ferris Industries) §9606(a)
Exxon Corp.
H.B. Fuller Co.
Honeywell, Inc.
Illinois Bronze Paint Co.
Ink Specialties Co., Inc.
Mail-Well Envelope Co.
Morton International, Inc.
Waste Management of Illinois, Inc.
Wells Manufacturing Co.
W.R. Grace and Co.
Village of Wauconda

I. JURISDICTION AND GENERAL PROVISIONS

This Order is issued 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, as amended ("CERCLA"), 42 U.S.C. §9606(a), and delegated to the Administrator of the United States Environmental Protection Agency ("U.S. EPA") by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by U.S. EPA Delegation Nos. 14-14-A and 14-14-B, and to the Director, Superfund Division, Region 5, by Regional Delegation Nos. 14-14-A and 14-14-B.

This Order pertains to property located at and near the former Wauconda Sand and Gravel Landfill (the "Site"). This Order requires the Respondents to conduct removal activities described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

U.S. EPA has notified the State of Illinois of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. §9606(a).

II. PARTIES BOUND

This Order applies to and is binding upon Respondents and Respondents' heirs, receivers, trustees, successors and assigns. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondents' responsibilities 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 Respondents with any provision of this Order shall not excuse or justify noncompliance by any other Respondent.

Respondents shall ensure that their contractors, subcontractors, and representatives comply with this Order. Respondents shall be responsible for any noncompliance.

III. FINDINGS OF FACT

Based on available information, including the Administrative Record in this matter, U.S. EPA hereby finds that:

1. U.S. EPA, pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9605, placed the Site on the National Priorities List, which is set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on September 21, 1984, 49 Fed. Reg. 37070 (1984). The Site is located in the W 1/2 of the NW 1/4 of Section 24, T44N, R9E of the 3rd Principal Meridian, Lake County, Illinois. The Site is bordered on the east by Garland Road, on the south by Bonner Road, and on the north by Mutton Creek in Wauconda Township.
2. The Wauconda Sand & Gravel Landfill occupies 74 acres, including a 43-acre unpermitted landfill, a nine-acre permitted landfill, a nine-acre excavated but unfilled area and thirteen acres of perimeter area. Based on the landfill configuration, the total compacted volume of waste at the Site is estimated to be between 2.8 and 3.1 million cubic yards.
3. The Site was used as a landfill from 1950 until 1978. Disposal receipts are available for disposal that occurred

from 1965 through 1978. These disposal receipts are estimated to account for 3.1 million "gate" yards of waste entering the Landfill. Gate yards are cubic yards of uncompacted wastes that entered the Landfill. However, "gate" yards can be compacted 30 to 50%, so that a large portion of the landfill waste is undocumented.

4. In response to a release or a substantial threat of a release of a hazardous substance at or from the Site, the U.S. EPA in June 1983 commenced a Remedial Investigation and Feasibility Study ("RI/FS") pursuant to Section 104(a) of CERCLA and 40 C.F.R. 300.68 for the Site.
5. The first report on the Remedial Investigation was the Remedial Investigation Data Report dated August 29, 1984. This was followed by the Remedial Investigation Analysis/Development of Alternative Report dated November 1, 1984.
6. The reports listed in Paragraph 5 above documented that the concentration of some organic compounds in the groundwater at the Site exceeded established water quality criteria. Additional sampling was conducted by U.S. EPA and is included in the Remedial Investigation Supplement, dated July 1985. A Feasibility Study was completed on August 1, 1985 and recommended that interim remedial measures ("IRMs") be undertaken, including cap repairs, leachate seep collection, and installation of a perimeter fence. Along with these IRMs, U.S. EPA recommended additional study to further define potential environmental impacts from the landfill before making a decision on the final remedial action.
7. On September 30, 1985, U.S. EPA signed a Record of Decision ("ROD") selecting a remedial action for this Site. The ROD called for installing leachate collection drains, proper disposal of leachate, regrading of landfill soil cover, revegetating bare areas, and constructing a fence around the Site.
8. An Administrative Consent Order, Docket number V-W-86-C-006, was entered into among U.S. EPA, IEPA and a group of the Wauconda PRPs known as the Wauconda Task Group ("WTG"), on July 28, 1986. This Consent Order required the WTG to perform a Supplemental Remedial Investigation/Feasibility Study ("SRI/FS") and perform an operable unit of IRMs at the Site. Pursuant to Administrative Order Docket Number V-W-86-C-006, the WTG completed installation of the fence,

leachate collection system and most of the Site cover repairs by September 1, 1988.

9. An Administrative Order by Consent, Docket Number V-W-88-C-124, pursuant to Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a), was entered into between U.S. EPA and Browning-Ferris Industries of Illinois, Inc., in September 1988. The Administrative Order required the Respondent to continue cap maintenance and leachate removal per the 1985 ROD until May 31, 1989.
10. U.S. EPA's decision on the final remedial action for the Site is embodied in the ROD signed on March 31, 1989, to which IEPA gave its concurrence. The 1989 ROD called for long term monitoring of groundwater and Mutton Creek, continued monitoring of the downgradient contaminant plume, adding more air emission controls, imposing restrictions on usage of on-site groundwater, upgrading the northern portion of the Site cover, continued operation of the leachate collection system, and long term inspection and maintenance at the Site.
11. In December 1989, U.S. EPA issued a Unilateral Administrative Order ("UAO") pursuant to Section 106 of CERCLA, 42 U.S.C. Section 9606, requiring the WTG to implement the 1989 ROD. Attached to the UAO was a Scope of Work ("SOW"), which provided for quarterly and annual monitoring of groundwater. A stepped-up regime of monitoring would be triggered if a compound exceeded one-half of a Primary Drinking Water Standard. In the case of vinyl chloride, the trigger would be 1.0 ppb, or one-half of the MCL. 11 upper aquifer monitoring wells on the Landfill and directly adjacent to the Landfill have, at some point, exceeded the MCL for vinyl chloride.
12. U.S. EPA prepared Five-year Review Reports in 1997 and in 2002 for the Site. Those reports concluded that the remedy would be protective of human health and the environment upon attainment of groundwater cleanup goals which was expected to require 30 years to achieve. All known threats at the Site had been addressed through upgrading the landfill cap, the installation and operation of a leachate control system, operation of a gas management system, and fencing to prevent access to the Site.
13. During the period of September 2003 to December 2003, the Lake County Health Department ("LCHD") sampled 21 residential wells in Wauconda Township and the Village of

Wauconda. The wells sampled are to the east and southeast of the landfill. Groundwater in the area flows from the landfill to the northeast in the upper aquifer before dropping to the lower aquifer and flowing to the south. LCHD discovered 8 residential wells with detectable levels of vinyl chloride. 3 of those 8 wells had levels of vinyl chloride at or above the Maximum Contaminant Level ("MCL") of 2.0 parts per billion ("ppb"). 4 of the 8 wells were at or above 1.0 ppb, but below 2.0 ppb.

14. In late January 2004, the WTG sampled 121 residential wells in Wauconda Township. The wells sampled are in the Hillcrest subdivision, a subdivision of homes east of the landfill that is also in the path of groundwater flow from the landfill. 81 of 121 wells sampled had detectable levels of vinyl chloride. None of the wells sampled in January were found to exceed the MCL for vinyl chloride. 4 of 81 wells were at or above 1.0 ppb, but below 2.0 ppb.
15. In March and June 2004, the WTG re-sampled all residential wells that had at some time since September 2003 tested at or above 1.0 ppb for vinyl chloride. In addition, the WTG sampled 16 wells in the Village of Wauconda that had not previously been sampled. 3 of the 16 wells had levels of vinyl chloride at or above 1.0 ppb, but below 2.0 ppb.

IV. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, and the Administrative Record supporting these removal actions, U.S. EPA determines that:

1. The Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. §9601(9).
2. Vinyl chloride is a "hazardous substance" as defined by Section 101(14) of CERCLA, 42 U.S.C. §9601(14).
3. Each Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. §9601(21).
4. Respondents are either persons who arranged for disposal or transport for disposal of hazardous substances at the Site. Respondents are therefore liable persons under Section 107(a) of CERCLA, 42 U.S.C. §9607(a).
5. The conditions described in the Findings of Fact above

constitute an actual or threatened "release" into the "environment" as defined by Sections 101(8) and (22) of CERCLA, 42 U.S.C. §§9601(8) and (22).

6. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon the factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan, as amended ("NCP"), 40 CFR Part 300. These factors include, but are not limited to, the following:

1. Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants or contaminants; this factor is present at the Site due to the existence of vinyl chloride in groundwater that is drawn into residential drinking water wells for household use.
2. Actual or potential contamination of drinking water supplies or sensitive ecosystems; this factor is present at the Site due to the existence of vinyl chloride in groundwater that is drawn into residential drinking water wells for household use. Levels of vinyl chloride in 3 wells have exceeded the MCL and there continues to be the threat that the MCL will be exceeded in drinking water wells in the future.

7. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. §9606(a).

8. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment, and are not inconsistent with the NCP and CERCLA.

V. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, U.S. EPA hereby orders that Respondents perform the following actions:

1. Notice of Intent to Comply

Respondents shall notify U.S. EPA in writing within 3 business days after the effective date of this Order of Respondents' irrevocable intent to comply with this Order. Failure of each Respondent to provide such notification within this time period shall be a violation of this Order.

2. Designation of Contractor, Project Coordinator, and Remedial Project Manager

Respondents shall perform the removal actions themselves or retain a contractor(s) to implement the removal actions. Respondents shall notify U.S. EPA of Respondents' qualifications or the name and qualifications of such contractor(s), whichever is applicable, within 5 business days of the effective date of this Order. Respondents shall also notify U.S. EPA of the name and qualifications of any other contractors or subcontractors retained to perform work under this Order at least 5 business days prior to commencement of such work. U.S. EPA retains the right to disapprove of the Respondents or any of the contractors and/or subcontractors retained by the Respondents. If U.S. EPA disapproves a selected contractor, Respondents shall retain a different contractor within 2 business days following U.S. EPA's disapproval and shall notify U.S. EPA of that contractor's name and qualifications within 3 business days of U.S. EPA's disapproval.

Within 5 business days after the effective date of this Order, the Respondents shall designate a Project Coordinator who shall be responsible for administration of all the Respondents' actions required by the Order and submit the designated coordinator's name, address, telephone number, and qualifications to U.S. EPA. To the greatest extent possible, the Project Coordinator shall be present on-site or readily available during site work. U.S. EPA retains the right to disapprove of any Project Coordinator named by the Respondents. If U.S. EPA disapproves a selected Project Coordinator, Respondents shall retain a different Project Coordinator within 3 business days following U.S. EPA's disapproval and shall notify U.S. EPA of that person's name and qualifications within 4 business days of U.S. EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from U.S. EPA relating to this Order shall constitute receipt by all Respondents.

The U.S. EPA has designated Lolita Hill of the Remedial Response Branch #2, Region 5, as its Remedial Project Manager ("RPM"). Respondents shall direct all submissions required by this Order

to the RPM at 77 West Jackson Boulevard, S-6J, Chicago, Illinois, 60604-3590, by certified or express mail. Respondents shall also send a copy of all submissions to Mark Koller, Assistant Regional Counsel, 77 West Jackson Boulevard, C-14J, Chicago, Illinois, 60604-3590. All Respondents are encouraged to make their submissions to U.S. EPA on recycled paper (which includes significant postconsumer waste paper content where possible) and using two-sided copies.

3. Work to Be Performed

Respondents shall perform, at a minimum, the following response activities:

- a. Re-sample all residential drinking water wells near the Site that have been sampled within the past year, along with any residential wells in the Hillcrest subdivision that were not able to be sampled in previous efforts.
- b. Sample any Wauconda area residential drinking water wells not already sampled including wells immediately northwest of the Site, wells between Garland Road and the Hillcrest subdivision northeast of the Site, and wells south of the Site and south of the Hillcrest subdivision including wells in the Wellsmere Heights, North Shore, Spencer's Highland, Elmcrest, and Lakeview subdivisions.
- c. Conduct supplemental remedial investigations. This includes conducting hydrogeologic and water quality characterizations as described in Attachment C in order to fully define the magnitude and extent of groundwater contamination.
- d. Conduct a feasibility study to evaluate remedial action alternatives in accordance with CERCLA, the NCP, U.S. EPA guidance, and U.S. EPA's model RI/FS Statement of Work. A feasibility study may be of a focused or streamlined nature.

3.1 Work Plan and Implementation

With respect to the work described in Section 3a and 3b above, the Respondents shall initiate sampling of all wells within 10 business days after the effective date of this Order, and complete the sampling of all wells within 45 days of the effective date of this Order.

Within 15 business days after the effective date of this Order, the Respondents shall submit to U.S. EPA for approval a draft Work Plan for performing the activities set forth above in paragraphs 3c and 3d above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the activities required by paragraphs 3c and 3d of this Order.

U.S. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan. If U.S. EPA requires revisions, Respondents shall submit a revised draft Work Plan within 7 business days of notification. Respondents shall implement the Work Plan as finally approved in writing by U.S. EPA in accordance with the schedule approved by U.S. EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Order. Respondents shall notify U.S. EPA at least 48 hours prior to performing any on-site work pursuant to the U.S. EPA approved Work Plan.

Respondents shall not commence or undertake any removal actions at the Site without prior U.S. EPA approval.

3.2 Health and Safety Plan

Within 15 business days after the effective date of this Order, the Respondents shall submit a plan for U.S. EPA review and comment that ensures the protection of the public health and safety during performance of on-site work under this Order. This plan shall comply with applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 CFR Part 1910. If U.S. EPA determines it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by U.S. EPA, and implement the plan during the pendency of the removal action.

3.3 Quality Assurance and Sampling

All sampling and analyses performed pursuant to this Order shall conform to U.S. EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("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 U.S. EPA guidance. Upon request by U.S. EPA, Respondents shall have such a laboratory analyze samples submitted by U.S. EPA for quality assurance monitoring. Respondents shall provide to U.S. EPA the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection and/or

analysis. Respondents shall also ensure provision of analytical tracking information consistent with OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites."

Upon request by U.S. EPA, Respondents shall allow U.S. EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondents or their contractors or agents while performing work under this Order. Respondents shall notify U.S. EPA not less than 3 business days in advance of any sample collection activity. U.S. EPA shall have the right to take any additional samples that it deems necessary.

3.4 Reporting

Respondents shall submit a monthly written progress report to U.S. EPA concerning activities undertaken pursuant to this Order, beginning 30 calendar days after the effective of this Order, until termination of this Order, unless otherwise directed by the RPM. These reports shall describe all significant developments during the preceding period, including the work performed and any problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

Any Respondent that owns any portion of the Site, and any successor in title shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice of this Order to the transferee and written notice of the proposed conveyance to U.S. EPA and the State. The notice to U.S. EPA and the State shall include the name and address of the transferee. The party conveying such an interest shall require that the transferee will provide access as described in Section V.4 (Access to Property and Information).

3.5 Remedial Sampling Report

Within 30 calendar days after completion of the removal actions described in paragraphs 3a and 3b of this Order, the Respondents shall submit for U.S. EPA review a Remedial Sampling Report summarizing the sampling results obtained pursuant to paragraphs 3a and 3b.

The Remedial Sampling Report shall also include the following certification signed by a person who supervised or directed the preparation of that 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 this report, the information submitted is true, accurate, and complete.

4. Access to Property and Information

Respondents shall provide or obtain access as necessary to the Site and all appropriate off-site areas, and shall provide access to all records and documentation related to the conditions at the Site and the activities conducted pursuant to this Order. Such access shall be provided to U.S. EPA employees, contractors, agents, consultants, designees, representatives, and State of Illinois representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas in order to conduct activities which U.S. EPA determines to be necessary. Respondents shall submit to U.S. EPA, upon request, the results of all sampling or tests and all other data generated by Respondents or their contractor(s), or on the Respondents' behalf during implementation of this Order.

Where work under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall obtain all necessary access agreements within 7 calendar days after the effective date of this Order. Respondents shall immediately notify U.S. EPA if, after using their best efforts, they are unable to obtain such agreements. Respondents shall describe in writing their efforts to obtain access. U.S. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the response activities described herein, using such means as U.S. EPA deems appropriate.

5. Record Retention, Documentation, Availability of Information

Respondents shall preserve all documents and information, in their possession or the possession of their contractors, subcontractors or representatives, relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for six years following completion of the removal actions required by this Order. At the end of this six year period and at least 60 days before any document or information is destroyed, Respondents shall notify U.S. EPA that such documents and information are available to U.S. EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to U.S. EPA. In addition, Respondents shall provide documents and information retained under this Section at any time before expiration of the

six year period at the written request of U.S. EPA. Any information that Respondents are required to provide or maintain pursuant to this Order is not subject to the Paperwork Reduction Act of 1995, 44 U.S.C. §3501 et seq.

6. Off-Site Shipments

All hazardous substances, pollutants or contaminants 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 U.S. EPA, with the U.S. EPA Off-Site Rule, 40 CFR §300.440, 58 Fed. Reg. 49215 (Sept. 22, 1993).

7. Compliance With Other Laws

All actions required pursuant to this Order shall be performed in accordance with all applicable local, state, and federal laws and regulations except as provided in Section 121(e) of CERCLA and 40 CFR §300.415(j). In accordance with 40 CFR §300.415(j), all on-site actions required pursuant to this Order shall, to the extent practicable, as determined by U.S. EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under federal environmental or state environmental or facility siting laws.

8. Emergency Response and Notification of Releases

If any incident, or change in Site conditions, during the activities conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment, the Respondents shall immediately take all appropriate action to prevent, abate or minimize such release, or endangerment caused or threatened by the release. Respondents shall also immediately notify the RPM or, in the event of his/her unavailability, shall notify the Regional Duty Officer, Emergency Response Branch, Region 5 at (312) 353-2318, of the incident or Site conditions.

Respondents shall submit a written report to U.S. EPA within 7 business days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. Respondents shall also comply with any other notification requirements, including those in Section 103 of CERCLA, 42 U.S.C. §9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. §11004.

VI. AUTHORITY OF THE U.S. EPA REMEDIAL PROJECT MANAGER

The RPM shall be responsible for overseeing the implementation of this Order. The RPM shall have the authority vested in an RPM and On-Scene Coordinator by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by U.S. EPA or Respondents at the Site. Absence of the RPM from the Site shall not be cause for stoppage of work unless specifically directed by the RPM.

U.S. EPA and Respondents shall have the right to change their designated RPM or Project Coordinator. U.S. EPA shall notify the Respondents, and Respondents shall notify U.S. EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. Notification may initially be made orally, but shall be followed promptly by written notice.

VII. PENALTIES FOR NONCOMPLIANCE

Violation of any provision of this Order may subject Respondents to civil penalties of up to \$32,500 per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. §9606(b)(1) and as adjusted by 69 Fed. Reg. 7121-27 (Feb. 13, 2004) (codified at 40 C.F.R. § 19.4) pursuant to the Debt Collection Improvement Act of 1996. Respondents may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. §9607(c)(3). Should Respondents violate this Order or any portion hereof, U.S. EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. §9604, and/or may seek judicial enforcement of this Order pursuant to Section 106 of CERCLA, 42 U.S.C. §9606.

VIII. REIMBURSEMENT OF COSTS

Respondents shall reimburse U.S. EPA, upon written demand, for all response costs incurred by the United States in overseeing Respondents' implementation of the requirements of this Order. U.S. EPA may submit to Respondents on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. U.S. EPA's Itemized Cost Summary, or such other summary as certified by U.S. EPA, shall serve as the basis for payment.

Respondents shall, within 30 days of receipt of the bill, remit a cashier's or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency
Program Accounting & Analysis Section
P.O. Box 70753
Chicago, Illinois 60673

Respondents shall simultaneously transmit a copy of the check to the Director, Superfund Division, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590. Payments shall be designated as "Response Costs - Wauconda Sand and Gravel Site" and shall reference the payers' name and address, the U.S. EPA site identification number 0581, and the docket number of this Order.

Interest at a rate established by the Department of the Treasury pursuant to 31 U.S.C. §3717 and 4 CFR §102.13 shall begin to accrue on the unpaid balance from the day after the expiration of the 30 day period notwithstanding any dispute or an objection to any portion of the costs.

IX. RESERVATION OF RIGHTS

Nothing herein shall limit the power and authority of U.S. EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Order. U.S. EPA also reserves the right to take any other legal or equitable action as it deems appropriate and necessary, or to require the Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

X. OTHER CLAIMS

By issuance of this Order, the United States and U.S. EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or U.S. EPA shall not be a party or be held out as a party to any contract entered into by the Respondents or their directors, officers, employees, agents, successors,

representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Order.

This Order does not constitute a pre-authorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. §9611(a)(2).

Nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§9606(a), 9607(a).

XI. MODIFICATIONS

Modifications to any plan or schedule may be made in writing by the RPM or at the RPM's oral direction. If the RPM makes an oral modification, it will be memorialized in writing within 7 business days; however, the effective date of the modification shall be the date of the RPM's oral direction. The rest of the Order, or any other portion of the Order, may only be modified in writing by signature of the Director, Superfund Division, Region 5.

If Respondents seek permission to deviate from any approved plan or schedule, Respondents' Project Coordinator shall submit a written request to U.S. EPA for approval outlining the proposed modification and its basis.

No informal advice, guidance, suggestion, or comment by U.S. EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve Respondents of their obligations to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

XII. NOTICE OF COMPLETION

After submission of the Remedial Sampling Report pursuant to section 3.5 of this Order and approval of a Final FS Report as required by paragraph 3d of this Order, Respondents may request that U.S. EPA provide a Notice of Completion of the work required by this Order. If U.S. EPA determines that all work has been

fully performed in accordance with this Order, except for certain continuing obligations required by this Order (e.g., record retention), U.S. EPA will provide written notice to the Respondents. If U.S. EPA determines that any activities have not been completed in accordance with this Order, U.S. EPA will notify the Respondents, provide a list of the deficiencies, and require that Respondents modify the Work Plan to correct such deficiencies. The Respondents shall implement the modified and approved Work Plan. Failure to implement the approved modified Work Plan shall be a violation of this Order.

XIII. ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record supporting these removal actions is available for review during normal business hours in the U.S. EPA Record Center, Region 5, 77 W. Jackson Blvd., Seventh Floor, Chicago, Illinois. Respondents may contact Mark Koller, Assistant Regional Counsel, at (312) 353-2591 to arrange to review the Administrative Record. An index of the Administrative Record is attached to this Order.

XIV. OPPORTUNITY TO CONFER

Within 3 business days after issuance of this Order, Respondents may request a conference with U.S. EPA. Any such conference shall be held within 5 business days from the date of the request, unless extended by agreement of the parties. At any conference held pursuant to the request, Respondents may appear in person or be represented by an attorney or other representative.

If a conference is held, Respondents may present any information, arguments or comments regarding this Order. Regardless of whether a conference is held, Respondents may submit any information, arguments or comments (including justifications for any assertions that the Order should be withdrawn against a Respondent), in writing to U.S. EPA within 2 business days following the conference, or within 7 business days of issuance of the Order if no conference is requested. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not give Respondents a right to seek review of this Order. Requests for a conference shall be directed to Mark Koller, Assistant Regional Counsel, at (312) 353-2591. Written submittals shall be directed as specified in Section V.2 of this Order.

XV. 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 by the court's order.

XVI. EFFECTIVE DATE

This Order shall be effective 4 business days following issuance unless a conference is requested as provided herein. If a conference is requested, this Order shall be effective 2 business days after the day of the conference.

IT IS SO ORDERED

BY: _____
Richard C. Karl, Director
Superfund Division
United States
Environmental Protection Agency
Region 5

DATE: _____

ATTACHMENT A

INDEX TO ADMINISTRATIVE RECORD

ATTACHMENT B

LIABILITY FILE INDEX

1. Richard Boice Record of Communication dated August 23, 1985
2. Richard Boice Record of Communication dated May 21, 1985
3. Browning-Ferris Industries letter dated October 5, 1983
4. Richard Boice memorandum dated February 10, 1988
5. Potentially Responsible Party analysis notes dated June 26, 1983
6. Richard Boice letter to Bill E. Claybaugh dated March 21, 1986
7. Preliminary Summary of Information on Potentially Responsible Parties for the Wauconda Sand & Gravel Site
8. U.S. EPA Documentation of Disposal of Hazardous Wastes and Potentially Hazardous Wastes at the Wauconda Sand & Gravel Site during the period of operation of the permitted landfill (June 1977 - March 1978) summarized by generator
9. Wauconda Sand & Gravel Company PRP Identification List
10. Summary of Wastes Contributed by Generator PRPs
11. Exxon Chemical Americas letter dated July 7, 1983
12. Honeywell letter dated February 24, 1984
13. February 10, 1984 U.S. EPA letter to Honeywell, Inc.
14. January 16, 1984 Honeywell letter to U.S. EPA
15. U.S. EPA letter to Illinois Bronze Paint Company dated May 31, 1985
16. June 1, 1981 letter and attachments of Dearborn Chemical
17. Waste Management of Illinois, Inc. notification of Hazardous Waste Site
18. Heco Envelope Waste Transfer Contact Report dated May 4,

1981

19. Lakes Disposal Service, Inc. letter to Dearborn Chemical Company dated October 25, 1971

20. Dearborn Chemical Company Report of Deposit Analysis

21. State of Illinois EPA letter to W.R. Grace, Dearborn Chemical Division dated November 10, 1971

22. Dearborn Chemical Division Notification of Hazardous Waste Site

Attachment C

STATEMENT OF WORK ATTACHMENT**HYDROGEOLOGIC AND WATER QUALITY INVESTIGATIONS**

Resample all previously sampled monitoring wells to verify conditions throughout the plume. In addition, resample and if necessary reconstruct, the wells located on the Berger property. Additional hydrogeologic and water quality characterization should be done at a minimum of five locations between the landfill and the Hillcrest and North Shore subdivisions, and north of the landfill. This characterization should include vertical aquifer sampling for field parameters (temperature, pH, oxidation-reduction potential, dissolved oxygen, specific conductance), VOCs, chloride, ammonia, and nitrate. Samples should be collected from the upper and lower sand and sand-and-gravel deposits as well as the top few feet of the semi-confining unit. Samples should be collected at 5-foot intervals using a 5-foot screen length beginning at the water table and stopping at the top of the bedrock. Monitoring wells should be installed in each of these holes at the depth that corresponds to the most contaminated part of the aquifer, based on the sampling results. Samples also should be collected from monitoring wells installed in the upper 5-10 feet of the bedrock.

Aquifer characterization also should be performed at no fewer than three locations thought to be on the leading edge and the periphery of the plume. Vertical aquifer profiling and well construction should be performed at these locations. Wells at these locations can be used to help verify conditions at the leading edge of the plume and can serve as long-term monitoring points to verify plume stability in the future.

Geology should be continuously profiled at these locations and appropriate geo-technical samples (permeability, grain size, organic carbon content, etc.) should be collected to provide a more complete understanding of ground-water flow and contaminant fate.

Slug tests should be performed in the finished monitoring wells to determine the horizontal hydraulic conductivity of these deposits. This information can be used to calculate ground-water velocity.

At least one round of water-level measurements should be

collected from the finished monitoring wells to help determine ground-water flow directions. Taking water levels from a few of the residential wells in the area also should be conducted to supplement the data coverage.

Water levels should be measured in one of the new monitoring wells on a 15-30 minute sampling frequency over a period of at least 1 month to determine if pumping from the residential wells in the Hillcrest area affects water levels in the lower aquifer.

Development of a ground-water flow and contaminant-transport model should be considered to help predict contaminant migration through the aquifer as well as the impact of remediation scenarios.

Illinois:

Gary King

Division of Land Pollution Control

Illinois Environmental Protection Agency

1021 North Grand Avenue East

Springfield, Illinois 62702

**REMOVAL PROGRAM
106 UNILATERAL ORDER
ROUTING SLIP
(REVISED AUGUST 2004)**

Wauconda Sand & Gravel
(SITE NAME)

Please sign the Yellow and check your name off this page.
Then pass the document on to the next name.

Do not sign this page, SIGN THE YELLOW

	NAME	MAIL CODE
1. ENFORCEMENT SPECIALIST	_____	S-6J
2. RPM	<u>Lolita Hill</u>	S-6J
3. SECRETARY	_____	S-6J
4. ORC STAFF ATTORNEY	<u>Mark Koller</u>	C-14J
5. ORC SECTION CHIEF	<u>Connie Puchalski</u>	C-14J
6. SECRETARY	_____	S-6J
7. REMEDIAL RESPONSE SECTION CHIEF	<u>Donald Bruce</u>	S-6J
8. REMEDIAL RESPONSE BRANCH CHIEF	<u>James Mayke</u>	S-6J
9. SECRETARY	_____	S-6J
10. ERB ACTING BRANCH CHIEF	<u>Thomas Geishecker</u>	S-6J
11. SECRETARY FOR LOGGING	_____	S-6J
12. ENFORCEMENT COORDINATOR	<u>Linda Nachowicz</u>	S-6J
13. ACTING DOCKET CLERK	_____	S-6J
14. SFD DIRECTOR	<u>Rick Karl</u>	S-6J
15. RETURN TO S-6J SECRETARY FOR MAILING TO PRPs AND DISTRIBUTION OF BCC LIST. DATE MAILED TO PRPs: _____		

bcc: Docket Analyst, ORC (C-14J)
Mark Koller, ORC (C-14J)
Lolita Hill, (SR-6J)
John Maritote, EESS (SE-5J)
Denise Battaglia, Public Affairs (P-19J) w/out attachments
Michael T. Chezik, Department of Interior
Tony Audia, PAAS (MF-10J)
Records Center (SMR-7J)
Jeanne Griffin (SE-4J)

Implementation of UAO Reform Questionnaire

(form revised 2/10/04)

- This form should be filled out for each UAO issued pursuant to CERCLA 106 (except those issued for site access only).
- Please fill out this form **no later than two weeks** after issuance.
- **Once completed, the form should be returned to Mike Northridge, USEPA, mail code 2272A, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460**, or through LAN mail.
- If you have any questions regarding the questionnaire, please call Mike at (202)564-4263.

Site Name:	Region:	Date Prepared:
Preparer Name:	Position:	Phone Number:

1) a) Date UAO issued: _____ b) UAO Number: _____
(if available) (e.g., UA002)

2) Purpose of UAO (please appropriate box):
*(Note: Do not include UAOs that are for **access** only)*

Removal	RI/FS	RD/RA

3) Number of parties receiving the UAO:

4) Number of parties receiving the UAO that were governmental (local, state or federal) entities:
(Note: Please provide names of any governmental parties that received the UAO)

5) Number of parties that did **NOT** receive the UAO:

Note: Parties are considered excluded when:

- *There is sufficient evidence to make a preliminary determination of potential liability under §107 of CERCLA;*
- *and*
- *They have not previously reached full settlement with the government; and*
- *They were not issued the UAO.*

STOP here if the answer to question 5 is zero.

6) If parties were excluded from the UAO, please provide the reason(s) for excluding them in the chart on the next page:

Note: Agency policy provides for only several acceptable reasons for excluding PRPs from a UAO. These include:

- 1) *lack of evidence of the party's liability;*
- 2) *the party is financially non-viable;*
- 3) *the party made only a relatively minor contribution towards the site conditions (e.g., sent only a*

Site name:

4

de minimis amount of waste to the site);

- 4) *consideration of work that a PRP has already conducted at the site (or has agreed to conduct), especially where such work is equivalent to that PRP's "fair share;" and*
- 5) *the UAO was already being issued to a large number of PRPs and the inclusion of additional parties would have raised manageability concerns.*

	Reason for Exclusion	Number of Parties Excluded due to Reason	Identify any Government entities excluded
1	Lack of evidence; litigative risks		
2	Financially non-viable		
3	Minor contribution of waste to the site		
4	Contributed "fair share"		
5	Manageability concerns		
	Other reason (please explain)		

- 7) Did the package presented to the Regional decision-maker identify the PRPs not receiving the UAO, and the reason(s) for their exclusion? *Note: Along with this questionnaire, please submit a copy of the excerpt from the UAO package that identifies the excluded PRP(s) and the reason(s) for exclusion, plus a copy of the cover page for the package (showing, e.g., the name of the decision-maker as the recipient of the package).*
 - A) If the information was not in the UAO package but instead was presented to the Regional decision-maker via a different context, then please prepare a memo to the file now and submit a copy to HQ. The memo should document the different means that were used to present this information to the decision-maker (e.g., via written briefing materials separate from the UAO package itself).
 - B) If there is no paperwork documenting that the decision-maker was presented with information regarding both the existence of excluded PRP(s) and the reason(s) for exclusion, please now prepare an appropriate memo to the decision-maker and submit a copy to HQ.
- 8) If the reason (or one of the reasons) for excluding a party(ies) was lack of financial viability, did the UAO package contain (or cross-reference) documentation for each PRP that allegedly did not have an ability to pay cleanup costs? *Note: For each PRP excluded due to financial viability, the 8/2/96 procedures call for PRP-specific documentation of financial condition.*

****Please don't hesitate to contact Mike Northridge at (202) 564-4263 with any questions regarding this questionnaire or suggestions for improving this Reform.**** •