

# APPENDIX B

**APPENDIX B**

Statement of Work

**REMEDIAL DESIGN/REMEDIAL ACTION  
STATEMENT OF WORK**

**FINAL ACTION – OPERABLE UNITS 01 and 02  
INTERIM ACTION – OPERABLE UNIT 03**

**OLIN CHEMICAL SUPERFUND SITE  
Wilmington, Middlesex County, Massachusetts**

**EPA Region 1**

**TABLE OF CONTENTS**

1.	INTRODUCTION .....	3
2.	STATE PARTICIPATION.....	5
3.	COMMUNITY INVOLVEMENT .....	6
4.	COORDINATION AND SUPERVISION .....	8
5.	REMEDIAL DESIGN .....	9
6.	REMEDIAL ACTION.....	17
7.	REPORTING .....	24
8.	DELIVERABLES.....	24
9.	SCHEDULES .....	31
10.	REFERENCES .....	38

## 1. INTRODUCTION

**1.1 Purpose of SOW.** This SOW sets forth the procedures and requirements for implementing the Work.

### 1.2 Structure of the SOW

- Section 2 (State Participation) addresses State participation.
- Section 3 (Community Involvement) sets forth EPA's and Settling Defendants' responsibilities for community involvement.
- Section 4 (Coordination and Supervision) contains the provisions for selecting the Supervising Contractor and Project Coordinators regarding the Work.
- Section 5 (Remedial Design) sets forth the process for developing the Remedial Design, which includes the submission of specified primary deliverables.
- Section 6 (Remedial Action) sets forth requirements regarding the completion of the Remedial Action, including primary deliverables related to completion of the Remedial Action.
- Section 7 (Reporting) sets forth Settling Defendants' reporting obligations.
- Section 8 (Deliverables) describes the contents of the supporting deliverables and the general requirements regarding Settling Defendants' submission of, and EPA's review of, approval of, comment on, and/or modification of, the deliverables.
- Section 9 (Schedules) sets forth the schedule for submitting the primary deliverables, specifies the supporting deliverables that must accompany each primary deliverable, and sets forth the schedule of milestones regarding the completion of the Remedial Action.
- Section 10 (References) provides a list of references, including URLs.

**1.3 The Scope of the Remedy** includes the actions described in Part 1, Section D and Part 2, Section L of the Record of Decision, including:

- (a) Construction and operation of new extraction and treatment systems to remove Dense Aqueous Phase Liquid ("DAPL") and hot spot groundwater targeting the 5,000 nanograms/Liter ("ng/L") n-nitrosodimethylamine ("NDMA") contour to reduce the mass and further migration of Site contaminants of concern ("Site COCs" or "COCs") in groundwater and prevent contaminated groundwater from flowing into surface water;
- (b) Construction and operation of a new multi-phase extraction system to capture Light Non-Aqueous Phase Liquid ("LNAPL") and associated contaminated groundwater and soil vapor;
- (c) Construction and operation of new treatment systems to treat the recovered LNAPL via oil/water separation, the soil vapor via granular activated carbon ("GAC"), and the captured groundwater via the same treatment system(s) as for hot spot groundwater;

- (d) Construction and operation of a new groundwater extraction and treatment system(s) to intercept and treat the overburden groundwater contaminant plume that impacts Site surface water;
- (e) Construction and maintenance of caps and cover systems on areas of soil contamination on the Olin Corporation (“Olin”) property at 51 Eames Street in Wilmington, Massachusetts (“Property”), including a multi-layer, low-permeability cap over the Containment Area that meets Resource Conservation and Recovery Act (“RCRA”) Subtitle D and Massachusetts solid waste landfill performance standards, the design and footprint of which will be determined during the Remedial Design phase;
- (f) Excavation of approximately 4,000 cubic yards (“cy”) of contaminated wetland soil and sediment and disposal off-site at an appropriate approved facility;
- (g) Backfilling of excavated areas with clean, hydric (wetland-type) soil, regrading, and revegetation with native vegetation to control erosion;
- (h) Long-term operation, maintenance, and monitoring of any new and existing remedy infrastructure components, including the Calcium Sulfate Landfill (“CSL”);
- (i) Institutional Controls that will:
  - (1) Prohibit the use of groundwater in the Site groundwater study area unless it can be demonstrated to EPA, in consultation with the Commonwealth, that such use will not pose an unacceptable risk to human health or the environment, cause further migration of the groundwater contaminant plume, or interfere with the remedy;
  - (2) Prevent disturbance of any engineered systems such as caps and cover systems, and any other new and existing remedy infrastructure components;
  - (3) Prevent residential, school, and daycare uses of the Property;
  - (4) Prevent contact with soil beneath caps and cover systems; and
  - (5) Require a vapor intrusion evaluation and/or vapor mitigation systems such as vapor barriers or sub-slab depressurization systems be installed for new building construction or building alternations on the Property; and
- (j) Five-Year Reviews to assess protectiveness of the remedy.

**1.4** The remedy will be divided into five (5) Remedial Action projects (“RA Projects”) to facilitate efficient implementation of the remedy. The five RA Projects are:

- (1) DAPL and Groundwater Hot Spots Extraction and Treatment;

- (2) LNAPL Remediation;
- (3) Surface Water Remediation;
- (4) Upland Soil Remediation; and
- (5) Wetland Soil and Sediments Remediation.

Institutional Controls implementation will proceed according to the EPA-approved Institutional Controls Implementation and Assurance Plans (“ICIAPs”), the development of which is found in ¶ 5.2. Long-term monitoring of the groundwater, LNAPL and surface water remediation RA Projects, and wetlands restoration associated with the soil and sediments RA Projects, will proceed according to the following EPA-approved deliverables: RDWP, Final (100%) Remedial Designs, RAWPs, Remedial Action Reports, and relevant supporting deliverables found in ¶ 8.7.

- 1.5** The terms used in this SOW that are defined in CERCLA, in regulations promulgated under CERCLA, or in the Consent Decree (“Decree”), have the meanings assigned to them in CERCLA, in such regulations, or in the Decree, except that the term “Paragraph” or “¶” means a paragraph of the SOW, and the term “Section” means a section of the SOW, unless otherwise stated.

## 2. STATE PARTICIPATION

- 2.1 Roles.** EPA is the lead agency, as defined in 40 C.F.R. § 300.5, in implementing, overseeing, or enforcing the Decree. MassDEP is the support agency, as defined in 40 C.F.R. § 300.5, in implementing, overseeing, or enforcing the Decree. In its role as the support agency, MassDEP may comment on any document related to this Consent Decree.
- 2.2 Copies.** Settling Defendants shall, at any time they send a deliverable, notice, notification, objection, information for remedy review during the shakedown period, proposal, report, plan, request, information for the community, or other document to EPA, send a copy of such document to MassDEP. EPA shall, at any time it sends a notice, notification, authorization, approval, disapproval, waiver, certification, or other document to Settling Defendants, send a copy of such document to MassDEP.
- 2.3 Meetings, Inspections and Periodic Communications.** EPA and Settling Defendants, respectively, shall provide MassDEP with timely advance notice of, and MassDEP shall have a reasonable opportunity to participate in, all meetings, inspections, conferences and periodic communications, initiated by either EPA or Settling Defendants and conducted pursuant to this SOW. This requirement will not apply to *de minimis* communications between EPA and Settling Defendants regarding logistical and administrative matters. Settling Defendants shall provide on-site office space for MassDEP to perform their support agency duties and basic personal protective equipment (*e.g.*, hard hats, safety glasses, hearing protection) to MassDEP personnel during on-site inspections. Office space will be shared space for EPA and MassDEP oversight staff.

**2.4 Review and Comment.** EPA shall provide MassDEP a reasonable opportunity to review and comment on:

- (a) Any EPA notice of disapproval and/or notice to proceed under ¶ 4.3 (Procedures for Disapproval/Notice to Proceed);
- (b) Any EPA comment on deliverables, including Preliminary (30%) Remedial Designs, Intermediate (60%) Remedial Designs, and Pre-Final (95%) Remedial Designs;
- (c) Any EPA waiver, notice, notification of any deficiencies, determination, and request;
- (d) Any EPA approval or disapproval of a request to omit an Intermediate (60%) Remedial Design under ¶ 5.7 (Intermediate (60%) Remedial Design);
- (e) Any Community Involvement Plan under ¶ 3.2 (Community Involvement Responsibilities);
- (f) Any EPA approval, disapproval, or modification under ¶ 8.6 (Approval of Deliverables) of any deliverables that are required to be submitted for EPA approval;
- (g) Any approval or disapproval of the Construction Phase under ¶ 6.7 (Remedial Action Construction Completion), any disapproval of, or Certification of Remedial Action Completion under ¶ 6.8 (Certification of Remedial Action Completion), and any disapproval of, or Certification of Work Completion under ¶ 6.10 (Certification of Work Completion); and
- (h) Any approval or disapproval of revised Remedial Design Schedules or Remedial Action Schedules under ¶ 9.2 (Schedules; Applicability and Revisions).

### **3. COMMUNITY INVOLVEMENT**

**3.1** As requested by EPA, Settling Defendants shall conduct community involvement activities under EPA's oversight as provided for in, and in accordance with this Section. Such activities must include designation of a Community Involvement Coordinator ("CI Coordinator").

#### **3.2 Community Involvement Responsibilities**

- (a) EPA has the lead responsibility for developing and implementing community involvement activities at the Site. MassDEP may provide support in implementing community involvement activities. EPA will develop a Community Involvement Plan ("CIP") for the Site pursuant to 40 C.F.R. § 300.435(c), which will describe the current and anticipated future public involvement activities during the Work, including any Technical Assistance Grant ("TAG"), any use of the Technical



Assistance Services for Communities (“TASC”) contract, and/or any Technical Assistance Plan (“TAP”).

- (b) **Settling Defendants’ CI Coordinator.** As requested by EPA, Settling Defendants shall, within 15 days, designate and notify EPA of Settling Defendants’ CI Coordinator (“Settling Defendants’ CI Coordinator”). Settling Defendants may hire a contractor for this purpose. Settling Defendants’ notice must include the name, title, and qualifications of the Settling Defendants’ CI Coordinator. Settling Defendants’ CI Coordinator shall coordinate his/her activities with EPA’s CI Coordinator (“EPA’s CI Coordinator”), provide support regarding EPA’s community involvement activities, and, as requested by EPA’s CI Coordinator, provide draft responses to the public’s inquiries including requests for information or data about the Site. The Settling Defendants’ CI Coordinator has the responsibility to ensure that when they communicate with the public, the Settling Defendants protect any “Personally Identifiable Information” (“PII”) (e.g., sample results from residential properties) in accordance with “EPA Policy 2151.0: Privacy Policy.”
- (c) As requested by EPA, in consultation with MassDEP, Settling Defendants shall participate in community involvement activities, including participation in: (1) the preparation of information regarding the Work for dissemination to the public, with consideration given to including mass media and/or internet notification, and (2) public meetings that may be held or sponsored by EPA to explain activities at or relating to the Site (with interpreters present for community members with limited English proficiency). Settling Defendants’ support of EPA’s community involvement activities may include providing online access to initial submissions and updates of deliverables to (1) any Community Advisory Groups, (2) any TAG recipients and their advisors, and (3) other entities, including the Town of Wilmington, to provide them with a reasonable opportunity for review and comment. EPA may describe in its CIP Settling Defendants’ responsibilities for community involvement activities. All community involvement activities conducted by Settling Defendants at EPA’s request are subject to EPA’s oversight. Upon EPA’s request, Settling Defendants shall establish, as early as is feasible, an online community information repository, as provided in the CIP, to house one copy of the administrative record.
- (d) **Information for the Community.** As requested by EPA, Settling Defendants shall develop and provide to EPA information about the design and implementation of the remedy including: (1) any validated data from monitoring of impacts to communities as provided in the Community Impacts Mitigation Plan under ¶ 8.7(f); (2) results from unvalidated sampling data as provided under ¶ 8.7(e)(7); (3) a copy of the Community Impacts Mitigation Plan required under ¶ 8.7(f); (4) schedules prepared under Section 9; (5) dates that Settling Defendants completed each task listed in the schedules; and (6) digital photographs of the Work being performed, together with descriptions of the Work depicted in each photograph, the purpose of the Work, and the location of the Work. The EPA Project Coordinator and the MassDEP Project Coordinator may use this

information for communication to the public via EPA's website or MassDEP's website, as appropriate, social media, or local and mass media. The information provided to EPA and MassDEP should be suitable for sharing with the public and the education levels of the community as indicated in EJ Screen. Translations should be in the dominant language(s) of community members with limited English proficiency.

#### 4. COORDINATION AND SUPERVISION

##### 4.1 Project Coordinators

- (a) Settling Defendants' Project Coordinator must have sufficient technical expertise to coordinate the Work. Settling Defendants' Project Coordinator may not be an attorney representing any Settling Defendant in this matter and may not act as the Supervising Contractor. Settling Defendants' Project Coordinator may assign other representatives, including other contractors, to assist in coordinating the Work.
- (b) EPA shall designate and notify the Settling Defendants of EPA's Project Coordinators and Alternate Project Coordinators. EPA may designate other representatives, which may include its employees, contractors, and/or consultants, to oversee the Work. EPA's Project Coordinator/Alternate Project Coordinator will have the same authority as a remedial project manager and/or an on-scene coordinator, as described in the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"). This includes the authority to halt the Work and/or to conduct or direct any necessary response action when it is determined that conditions at the Site constitute an emergency or may present an immediate threat to public health or welfare or the environment due to a release or threatened release of Waste Material.
- (c) MassDEP shall designate and notify EPA and the Settling Defendants of MassDEP's Project Coordinators and Alternate Project Coordinators. MassDEP may designate other representatives, including its employees, contractors and/or consultants to oversee the Work. For any meetings and inspections in which EPA's Project Coordinator participates, MassDEP's Project Coordinator also may participate. Settling Defendants shall notify MassDEP reasonably in advance of any such meetings or inspections.
- (d) Settling Defendants' Project Coordinators shall communicate with EPA's and MassDEP's Project Coordinators at least monthly.

- 4.2 Supervising Contractor.** Settling Defendants' proposed Supervising Contractor must have sufficient technical expertise to supervise the Work and a quality assurance system that complies with the most recent version of *Quality Systems for Environmental Data and Technology Programs -- Requirements with Guidance for Use* (American National Standard), ANSI/ASQC E4 (Feb. 2014).

### 4.3 Procedures for Disapproval/Notice to Proceed

- (a) Settling Defendants shall designate, and notify EPA, within 10 days after the Effective Date, of the name, title, contact information, and qualifications of the Settling Defendants' proposed Project Coordinator and Supervising Contractor, whose qualifications shall be subject to EPA's review for verification based on objective assessment criteria (*e.g.*, experience, capacity, technical expertise) and do not have a conflict of interest with respect to the project.
- (b) EPA shall issue notices of disapproval and/or authorizations to proceed regarding any proposed Project Coordinator and Supervising Contractor, as applicable. If EPA issues a notice of disapproval, Settling Defendants shall, within 30 days, submit to EPA a list of supplemental proposed Project Coordinators and/or Supervising Contractors, as applicable, including a description of the qualifications of each. Settling Defendants may select any coordinator/contractor covered by an authorization to proceed and shall, within 21 days, notify EPA of Settling Defendants' selection.
- (c) EPA may disapprove the proposed Project Coordinator, the Supervising Contractor, or both, based on objective assessment criteria (*e.g.*, experience, capacity, technical expertise), if they have a conflict of interest regarding the project, or any combination of these factors.
- (d) Settling Defendants may change their Project Coordinator and/or Supervising Contractor, or both, by following the procedures of ¶¶ 4.3(a) and 4.3(b).

## 5. REMEDIAL DESIGN

**5.1 Remedial Design Work Plan ("RDWP").** Settling Defendants shall submit one RDWP for EPA approval that covers all RA Projects described in ¶ 1.4. The RDWP must include:

- (a) Plans for implementing all Remedial Design activities identified in this SOW, in the RDWP, or required by EPA to be conducted to develop the Remedial Design;
- (b) A description of the overall management strategy for performing the Remedial Design, including a description of each RA Project, and how the pre-design investigation, design, and construction will be phased for that RA Project;
- (c) A description of the proposed general approach to contracting, construction, operation, maintenance, and monitoring of the Remedial Action as necessary to implement the Work;
- (d) A description of the responsibility and authority of all organizations and key personnel involved with the development of the Remedial Design;
- (e) Descriptions of any areas requiring clarification and/or anticipated problems (*e.g.*, data gaps);

- (f) General description of proposed Pre-Design Investigations and Treatability Studies;
- (g) Descriptions of any applicable permitting requirements and other regulatory requirements;
- (h) Description of plans for obtaining access in connection with the Work, such as property acquisition, property leases, and/or easements; and
- (i) The following supporting deliverables described in ¶ 8.7 (Supporting Deliverables): Health and Safety Plan, Emergency Response Plan, and general descriptions of Field Sampling Plan (FSP) and Quality Assurance Project Plan (QAPP). The FSP and QAPP will be developed as part of the Pre-Design Investigation Work Plan.

**5.2 Institutional Controls Implementation and Assurance Plan (“ICIAP”).** Settling Defendants shall submit an ICIAP for the OU1/OU2 final action and a separate ICIAP for the OU3 interim action for EPA approval. Each ICIAP shall describe plans and schedules to implement, maintain, monitor, enforce, and annually report on the Institutional Controls (“ICs”) at the Site. The ICIAP for the OU1/OU2 final action shall include plans to commence implementing ICs as early as is feasible, in particular, soon after remedial features are designed. The ICIAP for the OU3 interim action shall include plans to commence implementing ICs as early as is feasible. Each ICIAP shall include an evaluation of the viability (including outreach to the affected landowners), long-term effectiveness and enforceability of potential forms of ICs, either individually or in combination, and a recommendation for the appropriate ICs proposed to be implemented based on the evaluation. Each ICIAP also shall include procedures for effective and comprehensive review of implemented ICs, procedures for the solicitation of input from affected communities regarding the implementation of ICs, procedures to periodically review and determine if the ICs are having their intended effect, and if not, procedures for the development, approval and implementation of alternative, more effective ICs. Settling Defendants shall develop each ICIAP in accordance with *Institutional Controls: A Guide to Planning, Implementing, Maintaining, and Enforcing Institutional Controls at Contaminated Sites*, OSWER 9355.0-89, EPA/540/R-09/001 (Dec. 2012), and *Institutional Controls: A Guide to Preparing Institutional Control Implementation and Assurance Plans at Contaminated Sites*, OSWER 9200.0-77, EPA/540/R-09/002 (Dec. 2012), and, with respect to any property where a Notice of Activity and Use Limitation (“NAUL”) is proposed, relevant provisions of the Massachusetts Contingency Plan at 310 C.M.R. § 40.0000 *et seq.* (“MCP”), including 310 C.M.R. §§ 40.0111(8), 40.1070, and 40.1074. Settling Defendants also shall consider including in each ICIAP the establishment of effective Long-Term Stewardship procedures including those described in EPA Memorandum: *Advanced Monitoring Technologies and Approaches to Support Long-Term Stewardship* (July 20, 2018). Owner Settling Defendant shall not Transfer its Property unless it (a) executes and records a deed restriction on the Property at or before Transfer that obligates the buyer and all subsequent owners to comply with the ICIAPs, as approved prior to or subsequent to the recordation of such deed restriction, for the OU1/OU2 final action and the OU3 interim action, and (b) has executed and recorded all

instruments addressing all record matters that affect title, including all prior liens, claims, rights (such as easements), mortgages, and other encumbrances (collectively, “Prior Encumbrances”). Each ICIAP must also include the following, as appropriate:

- (a) Locations of recorded real property interests (*e.g.*, restrictions, easements, liens) and resource interests in the property that may affect ICs (*e.g.*, surface, mineral, and water rights) including accurate mapping and geographic information system (“GIS”) coordinates of such interests;
- (b) Legal descriptions and survey maps or plans that are prepared according to current American Land Title Association (“ALTA”) Survey guidelines and Massachusetts Registry of Deeds recording standards and certified by a licensed surveyor; and
- (c) If a NAUL(s) is selected as an IC:
  - (1) Schedule Requirements. Settling Defendants shall include, as part of the ICIAP schedules, a schedule for submitting draft NAUL(s) and all exhibits and associated submittals, including a title report (see ¶ 5.2(c)(2)) (“NAUL Documents”). Such schedule shall include assumed time frames for review and approval by EPA and MassDEP;
  - (2) Title Report. The ICIAP shall include a requirement for the submittal of a title report and certification by an insured title examiner or other title evidence acceptable to EPA and MassDEP that: (i) covers any property subject to the NAUL; (ii) demonstrates that the person or entity that will execute the NAUL is the owner of the property subject to the NAUL; (iii) identifies all holders of any record interest(s) in the area subject to the NAUL (including owners, lessees, tenants, mortgagees, and holders of easements or licenses); and (iv) includes a summary of and complete, legible copies of such interest(s);
  - (3) NAUL Requirements. The NAUL(s) and NAUL Documents shall be in compliance with the MCP, and subject to EPA and MassDEP approval. The NAUL and IC Design Statement (an exhibit of a NAUL that summarizes the site background and the required ICs) shall be in substantially the form attached hereto as Attachment 1 or any subsequent model NAUL and model IC Design Statement for CERCLA sites developed by MassDEP and EPA after the date of lodging of the Decree;
  - (4) Copies. Settling Defendants shall, within 30 days after recording and/or registering each NAUL, or such other deadline as approved by EPA and MassDEP, provide to EPA and the MassDEP a certification as required by 310 C.M.R. § 40.1074(1)(e);
  - (5) Cross-Referencing in Subsequent Instruments. Settling Defendants shall comply with 310 C.M.R. § 40.1074(5) to the extent that it applies. If

Settling Defendants determine that the owner of any property for which a NAUL has been recorded or registered has not referenced the NAUL in an instrument of Transfer of any interest in and/or right to use the property or a portion thereof that is subject to the NAUL, Settling Defendants shall re-record or re-register the NAUL in the appropriate land records office; and

- (6) Subsequent Amendments. If required by or as part of the Remedial Action or the Work, Settling Defendants shall prepare, obtain approval of EPA and MassDEP, and ensure the recordation or registration of any amendments, modifications, and/or terminations of any NAUL consistent with the MCP, including preparing surveys and plans.

**5.3 Periodic Communications.** Settling Defendants shall communicate regularly with EPA to discuss design issues as necessary, as directed or determined by EPA.

**5.4 Pre-Design Investigation (“PDI”).** The purpose of the PDI is to address data gaps by conducting additional field investigations.

- (a) **PDI Work Plan.** Settling Defendants shall submit a separate PDI Work Plan (“PDIWP”) for EPA approval for each RA Project described in ¶ 1.4.

- (1) Each PDIWP must include:

- (i) A schedule for implementing the PDI;
- (ii) An evaluation and summary of existing data and description of data gaps;
- (iii) A Field Sampling Plan including media (*e.g.*, soils, wetland soils/sediments, groundwater, LNAPL) to be sampled, contaminants or parameters for which sampling will be conducted, location (areal extent and depths to the extent that such can be determined), and initial number of samples;
- (iv) Cross references to quality assurance/quality control (“QA/QC”) requirements set forth in a new or updated Quality Assurance Project Plan (“QAPP”) as described in ¶ 8.7(d);
- (v) Updates of all supporting deliverables required to accompany the RDWP and the following additional supporting deliverables described in ¶ 8.7 (Supporting Deliverables): Field Sampling Plan; Quality Assurance Project Plan; Site Wide Monitoring Plan; Community Impacts Mitigation Plan; and
- (vi) A preliminary survey that includes updated topography, confirmation of current conditions, and property boundary extents for land parcels associated with the planned Final and Interim Remedial Actions for OU2 and OU3, respectively. Preliminary

surveys and assessments may be integrated with the ongoing Remedial Investigation for OU3, as appropriate.

- (2) The PDIWP for the DAPL and Groundwater Hot Spots Extraction and Treatment RA Project must also include:
  - (i) For the sampling plan, groundwater and other media sampling and PDI activities to inform the design for the interim groundwater remedy, including unit operations identified in the Treatability Study Work Plan conditionally approved by EPA in accordance with the RI/FS AOC (see ¶5.5(a)).
- (3) The PDIWP for the LNAPL Remediation RA Project must also include:
  - (i) Investigations to further characterize the extent of LNAPL in soil and groundwater that requires remediation;
  - (ii) For the sampling plan:
    - (A) Investigations to further characterize the extent of soil contamination posing human health risks to future indoor workers or building occupants;
    - (B) Soil, groundwater, and other media sampling and PDI activities to inform the design for the final LNAPL remedy; and
    - (C) Investigations to further characterize waste materials that will be managed on-site based on contaminant characteristics, prior to being transferred off-site for disposal at a properly licensed facility.
- (4) The PDIWP for the Surface Water Remediation RA Project must also include:
  - (i) For the sampling plan, groundwater and other media sampling and PDI activities to inform the design for the final surface water remedy.
- (5) The PDIWP for the Upland Soil Remediation RA Project must also include:
  - (i) Investigations to further characterize the extent of contamination within excavated soils that will be managed on-site based on contaminant characteristics, prior to being transferred off-site for disposal at a properly licensed facility;

- (ii) For the sampling plan, investigations to further characterize the horizontal and vertical extents of soil contamination exceeding cleanup levels;
  - (iii) Investigations to determine the location of soil caps and cover systems; and
  - (iv) Inspections of existing building foundations (*e.g.*, concrete floor slabs, concrete foundations) to serve as adequate protective caps/cover systems for soils exceeding cleanup levels.
- (6) The PDIWP for the Wetland Soil and Sediments Remediation RA Project must also include:
  - (i) For the sampling plan, investigations to further characterize the horizontal and vertical extents of wetland soil/sediment contamination exceeding cleanup levels; and
  - (ii) Investigations to further characterize the extent of contamination within excavated wetland soil/sediments that will be managed on-site based on contaminant characteristics, prior to being transferred off-site for disposal at a properly licensed facility.
- (b) Following completion of a PDI, Settling Defendants shall submit a PDI Evaluation Report for each RA Project for EPA approval. Each report must include:
  - (1) Summary of the investigations performed;
  - (2) Summary of investigation results;
  - (3) Summary of validated data (*i.e.*, tables and graphics);
  - (4) Data validation reports and laboratory data reports;
  - (5) Narrative interpretation of data and results;
  - (6) Results of statistical and modeling analyses if appropriate;
  - (7) Photographs documenting the work conducted; and
  - (8) Conclusions and recommendations for Remedial Design, including design parameters and criteria.
- (c) EPA may require Settling Defendants to supplement the PDI Evaluation Report and/or to perform additional pre-design studies.



## 5.5 Treatability Study (“TS”).

- (a) Pursuant to the July 3, 2007 *Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study* for the Site, CERCLA Docket No. 01-2007-0102 (“RI/FS AOC”), certain of the Settling Defendants are performing a TS for the purpose of refining the methodologies for on-site treatment of extracted DAPL and groundwater.
- (1) On September 10, 2021, these certain Settling Defendants submitted a TS Work Plan (“TSWP”) for EPA approval. EPA conditionally approved the TSWP on September 27, 2021. On April 26, 2022, EPA transmitted a letter to Olin Corporation approving commencement of the TS.
- (2) Following completion of the TS, these certain Settling Defendants shall submit to EPA by February 17, 2023 a Treatability Study Report for DAPL and groundwater hot spots for EPA approval under the RI/FS AOC, which includes MassDEP review and comment under Section 3.VI.G.2 of the RI/FS AOC.
- (b) EPA may require Settling Defendants to supplement the Treatability Study Report submitted and approved in accordance with the RI/FS AOC and/or to perform additional treatability studies, which shall be conducted in accordance with EPA’s *Guide for Conducting Treatability Studies under CERCLA, Final* (Oct. 1992), as supplemented for Remedial Design by the *Remedial Design/Remedial Action Handbook*, EPA 540/R-95/059 (June 1995).

## 5.6 Preliminary (30%) Remedial Design. Settling Defendants shall submit a separate Preliminary (30%) Remedial Design for EPA’s comment for each RA Project described in ¶ 1.4. Each Preliminary (30%) Remedial Design must include:

- (a) A design criteria report, as described in the *Remedial Design/Remedial Action Handbook*, EPA 540/R-95/059 (June 1995);
- (b) Preliminary drawings and specifications;
- (c) For the DAPL and Groundwater Hot Spots Extraction and Treatment RA Project and the LNAPL Remediation RA Project, identification of potential locations for LNAPL, soil vapor, and groundwater treatment facilities and other treatment structures;
- (d) For the Surface Water Remediation RA Project and the Wetland Soil and Sediments RA Project, evaluations and measures to ensure that contaminated groundwater does not potentially contaminate remediated wetlands, streambank soils/sediments, and surface waters;
- (e) Descriptions of permit requirements, if applicable;
- (f) Preliminary Operation and Maintenance (“O&M”) Plan and O&M Manual;

- (g) A description of how the Remedial Action will be implemented in a manner that minimizes environmental impacts in accordance with EPA's *Principles for Greener Cleanups* (Aug. 2009);
- (h) A description of monitoring and control measures to protect human health and the environment, such as air monitoring, and measures to reduce and manage traffic, noise, odors, and dust, during the Remedial Action in accordance with the Community Involvement Handbook pp. 53-66 (text box on p. 55) to minimize community impacts;
- (i) Any proposed revisions to the Remedial Action Schedule that is set forth in ¶ 9.3 (Remedial Action Schedule); and
- (j) Updates of all supporting deliverables required to accompany the RDWP and the PDIWP and the following additional supporting deliverables described in ¶ 8.7 (Supporting Deliverables): Construction Quality Assurance/Control Plan; Transportation and Off-Site Disposal Plan; O&M Plan; and O&M Manual.

**5.7 Intermediate (60%) Remedial Design.** Settling Defendants shall submit a separate Intermediate (60%) Remedial Design for EPA's comment for each RA Project described in ¶ 1.4. Each Intermediate (60%) Remedial Design must:

- (a) Be a continuation and expansion of the Preliminary (30%) Remedial Design;
- (b) Address EPA's comments regarding the Preliminary (30%) Remedial Design; and
- (c) Include the same elements as are required for the Preliminary (30%) Remedial Design.

Settling Defendants may submit a request for EPA's approval to omit an Intermediate (60%) Remedial Design for a particular RA Project, based on the degree of complexity of that RA Project (*e.g.*, omission of the Intermediate (60%) Remedial Design for components of lesser complexity, such as the soil and sediments remediation).

**5.8 Pre-Final (95%) Remedial Design.** Settling Defendants shall submit a separate Pre-Final (95%) Remedial Design for EPA's comment for each RA Project described in ¶ 1.4. Each Pre-Final (95%) Remedial Design must be a continuation and expansion of the previous design submittal and must address EPA's comments regarding the Intermediate (60%) Remedial Design or the Preliminary (30%) Remedial Design if EPA has approved the omission of the Intermediate (60%) Remedial Design. The Pre-Final (95%) Remedial Design will serve as the approved Final (100%) Remedial Design if EPA approves the Pre-Final (95%) Remedial Design without comments. Each Pre-Final (95%) Remedial Design must include:

- (a) A complete set of construction drawings and specifications that are: (1) certified by a registered professional engineer; (2) suitable for procurement; and (3) follow the Construction Specifications Institute's MasterFormat 2020;

- (b) A survey and engineering drawings showing existing Site features, such as elements, property borders, easements, and Site conditions;
- (c) Pre-final versions of the same elements and deliverables as are required for the Preliminary (30%)/Intermediate (60%) Remedial Design;
- (d) A specification for photographic documentation of the Remedial Action; and
- (e) Updates of all supporting deliverables required to accompany the Preliminary (30%) Remedial Design.

**5.9 Final (100%) Remedial Design.** Settling Defendants shall submit a separate Final (100%) Remedial Design for EPA approval for each RA Project described in ¶ 1.4. Each Final (100%) Remedial Design must address EPA’s comments on the Pre-Final (95%) Remedial Design and must include final versions of all Pre-Final (95%) Remedial Design deliverables.

## **6. REMEDIAL ACTION**

**6.1 Remedial Action Work Plan (“RAWP”).** Settling Defendants shall submit a separate RAWP for EPA approval for each RA Project described in ¶ 1.4 that includes:

- (a) A proposed Remedial Action Construction Schedule, such as critical path method, Gantt chart, or Program Evaluation and Review Techniques (“PERT”) chart;
  - (1) For the DAPL and Groundwater Hot Spots Extraction and Treatment RA Project, such schedule shall include:
    - (i) Construction completion deadlines for the DAPL pools and groundwater hot spot areas; and
    - (ii) Construction completion deadlines for the Containment Area extraction wells and conveyance system.
  - (2) For the Upland Soil Remediation RA Project, such schedule shall include:
    - (i) Construction completion deadlines for soils (excluding the Containment Area); and
    - (ii) Construction completion deadlines for Containment Area soils.
- (b) An updated health and safety plan that covers activities during the Remedial Action; and
- (c) Plans for satisfying permitting requirements, including obtaining permits for off-site activity and for satisfying substantive requirements of permits for on-site activity.

**6.2 Independent Quality Assurance Team (“IQAT”).** Settling Defendants shall notify EPA of Settling Defendants’ designated IQAT. Settling Defendants may hire a third party for this purpose. Settling Defendants’ notice must include the names, titles, contact information, and qualifications of the members of the IQAT. The IQAT will have the responsibility to determine whether Work is of expected quality and conforms to applicable plans and specifications. The IQAT will have the responsibilities as described in section 2.1.3 of the *Guidance on EPA Oversight of Remedial Designs and Remedial Actions Performed by Potentially Responsible Parties*, EPA/540/G-90/001 (Apr. 1990).

### **6.3 Meetings and Inspections**

- (a) **Preconstruction Conference.** Settling Defendants shall hold a preconstruction conference with EPA and others as directed or approved by EPA and as described in the *Remedial Design/Remedial Action Handbook*, EPA 540/R-95/059 (June 1995). Settling Defendants shall prepare minutes of the conference and shall distribute the minutes to all Parties.
- (b) **Periodic Communications.** During the construction portion of the Remedial Action (“Remedial Action Construction”), Settling Defendants shall communicate regularly, and no less than bi-weekly, with EPA and others as directed or determined by EPA, to discuss construction issues. Settling Defendants shall distribute an agenda and list of attendees to all Parties prior to each meeting or telephone call. Settling Defendants shall prepare minutes of the meetings or calls and shall distribute the minutes to all Parties.
- (c) **Inspections**
- (1) EPA or its representative shall conduct periodic inspections of or have an on-site presence during the Work. At EPA’s request, the Supervising Contractor or other designee shall accompany EPA or its representative during inspections.
  - (2) Settling Defendants shall provide on-site office space for agency personnel to perform their oversight duties. The minimum office requirements are two office desks with chairs, wireless internet access, and sanitation facilities.
  - (3) Settling Defendants shall provide basic personal protective equipment (*e.g.*, hard hats, safety glasses, hearing protection) needed for EPA and MassDEP personnel and/or their representatives and any oversight officials to perform their oversight duties.
  - (4) Upon notification by EPA of any deficiencies in the Remedial Action Construction, Settling Defendants shall take all necessary steps to correct the deficiencies and/or bring the Remedial Action Construction into compliance with the approved Final (100%) Remedial Design, any approved design changes, and/or the approved RAWP. If applicable,

Settling Defendants shall comply with any schedule provided by EPA in its notice of deficiency.

#### 6.4 Permits

- (a) As provided in CERCLA § 121(e), and Section 300.400(e) of the NCP, no permit is required for any portion of the Work conducted entirely on-site (*i.e.*, within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Work). Where any portion of the Work that is not on-site requires a federal or state permit or approval, Settling Defendants shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals.
- (b) Settling Defendants may seek relief under the provisions of Section X (Force Majeure) of the Decree for any delay in the performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit or approval referenced in ¶ 6.4(a) and required for the Work, provided that they have submitted timely and complete applications and taken all other actions necessary to obtain all such permits or approvals.
- (c) Nothing in the Decree or this SOW constitutes a permit issued under any federal or state statute or regulation.

#### 6.5 Emergency Response and Reporting

- (a) **Emergency Action.** If any event occurs during performance of the Work that causes or threatens to cause a release of Waste Material on, at, or from the Site and that either constitutes an emergency situation or that may present an immediate threat to public health or welfare or the environment, Settling Defendants shall: (1) immediately take all appropriate action to prevent, abate, or minimize such release or threat of release; (2) immediately notify the authorized EPA officer and the authorized MassDEP officer (as specified in ¶ 6.5(c)) orally and by email; and (3) take such actions in consultation with the authorized EPA officer and in accordance with all applicable provisions of the Health and Safety Plan, the Emergency Response Plan, and any other deliverable approved by EPA under the SOW.
- (b) **Release Reporting.** Upon the occurrence of any event during performance of the Work that Settling Defendants are required to report under CERCLA § 103 or Section 304 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), Settling Defendants shall immediately notify the authorized EPA and MassDEP officers orally and by email.
- (c) The “authorized EPA officer” for purposes of immediate oral notifications and consultations under ¶ 6.5(a) and ¶ 6.5(b) is the EPA Project Coordinator, the EPA Alternate Project Coordinator (if the EPA Project Coordinator is unavailable), or the EPA Emergency Response Unit, Region 1 (if neither EPA Project Coordinator

is available). The “authorized MassDEP officer” for purposes of immediate oral notifications and consultations under ¶ 6.5(a) and ¶ 6.5(b) is the MassDEP Project Coordinator or the MassDEP Alternate Project Coordinator (if the MassDEP Project Coordinator is unavailable).

- (d) For any event covered by ¶ 6.5(a) and ¶ 6.5(b), Settling Defendants shall:
  - (1) within 14 days after the onset of such event, submit a report to EPA describing the actions or events that occurred and the measures taken, and to be taken, in response thereto; and (2) within 30 days after the conclusion of such event, submit a report to EPA describing all actions taken in response to such event.
- (e) The reporting requirements under ¶ 6.5 are in addition to the reporting required by CERCLA § 103 or EPCRA § 304, or Chapter 21E and the MCP.

## 6.6 Off-Site Shipments

- (a) Settling Defendants may ship hazardous substances, pollutants, and contaminants from the Site to an off-site facility only if they comply with CERCLA § 121(d)(3), and 40 C.F.R. § 300.440. Settling Defendants will be deemed to be in compliance with CERCLA § 121(d)(3) and 40 C.F.R. § 300.440 regarding a shipment if Settling Defendants obtain a prior determination from EPA that the proposed receiving facility for such shipment is acceptable under the criteria of 40 C.F.R. § 300.440(b).
- (b) Settling Defendants may ship, in accordance with any applicable federal and State laws and regulations, Waste Material from the Site to an out-of-state waste management facility only if, prior to any shipment, they provide notice to the appropriate state environmental official in the receiving facility’s state and to the EPA Project Coordinator. This notice requirement will not apply to any off-site shipments when the total quantity of all such shipments does not exceed 10 cubic yards. The notice must include the following information, if available: (1) the name and location of the receiving facility; (2) the type and quantity of Waste Material to be shipped; (3) the schedule for the shipment; and (4) the method(s) of transportation. Settling Defendants also shall notify the state environmental official referenced above and the EPA Project Coordinator of any major changes in the shipment plan, such as a decision to ship the Waste Material to a different out-of-state facility. Settling Defendants shall provide the notice after the award of the contract for Remedial Action construction and before the Waste Material is shipped.
- (c) Settling Defendants may ship Investigation Derived Waste (“IDW”) from the Site to an off-site facility only if they comply with CERCLA § 121(d)(3), 40 C.F.R. § 300.440, *EPA’s Guide to Management of Investigation Derived Waste*, OSWER 9345.3-03FS (Jan. 1992), any applicable federal and State laws and regulations, and any IDW-specific requirements contained in the Record of Decision. Wastes shipped off-site to a laboratory for characterization, and RCRA hazardous wastes that meet the requirements for an exemption from RCRA under 40 C.F.R.

§ 261.4(e) shipped off-site for treatability studies, are not subject to 40 C.F.R. § 300.440.

## 6.7 Remedial Action Construction Completion

- (a) For purposes of this ¶ 6.7, “Remedial Action Construction” comprises, for any RA Project that involves the construction and operation of a system to achieve Performance Standards (for example, the surface water restoration remedy), the construction of such system and the performance of all activities necessary for the system to function properly and as designed.
- (b) **Inspection of Constructed RA Project.** For each RA Project, Settling Defendants shall schedule a Pre-Final Inspection to review the construction and operation of the system and to review whether the system is functioning properly and as designed. The inspection must be attended by Settling Defendants, EPA, MassDEP (at its option), and/or their representatives. Following the Pre-Final Inspection, Settling Defendants shall submit a Pre-Final Inspection Report to EPA for approval. The Pre-Final Inspection will serve as the Final Inspection if EPA approves the Pre-Final Inspection Report without identifying a need for additional work. A reinspection must be conducted if requested by EPA. If EPA or Settling Defendants identify a need for additional work during the Pre-Final Inspection, Settling Defendants shall complete that additional work and shall schedule a Final Inspection to review the construction and operation of the system, the additional work completed, and whether the system is functioning properly and as designed.
- (c) **Shakedown Period.** For the DAPL and Groundwater Hot Spots Extraction and Treatment, Surface Water Remediation, and LNAPL Remediation RA Projects, following the Final Inspection, Settling Defendants shall commence operation of the system, and there shall be a Shakedown Period of up to one year for EPA to review whether the remedy is functioning properly and performing as designed. Settling Defendants shall provide such information as EPA requests for such review.
- (d) **Remedial Action Report.** For each RA Project, following the Shakedown Period for the DAPL and Groundwater Hot Spots Extraction and Treatment, Surface Water Remediation, and LNAPL Remediation RA Projects, or following the Final Inspection for the Soil Remediation and Sediments Remediation RA Projects, Settling Defendants shall submit a “Remedial Action Report” requesting EPA’s determination that Remedial Action Construction has been completed. Each Remedial Action Report must: (1) include statements by a registered professional engineer and by Settling Defendants’ Project Coordinator that the construction of the system is complete and that the system is functioning properly and as designed; (2) include a demonstration, and supporting documentation, that construction of the system is complete and that the system is functioning properly and as designed; (3) include as-built drawings signed and stamped by a registered professional engineer; (4) be prepared in accordance with Chapter 2 (Remedial Action Completion) of EPA’s *Close Out Procedures for NPL Sites* guidance

(May 2011), as supplemented by *Guidance for Management of Superfund Remedies in Post Construction*, OLEM 9200.3-105 (Feb. 2017); and (5) be certified in accordance with ¶ 8.5 (Certification).

- (e) If EPA determines that the particular RA Project's Remedial Action Construction is not complete, EPA shall so notify Settling Defendants. EPA's notice must include a description of, and schedule for, the activities that Settling Defendants must perform to complete RA Project construction. EPA's notice may include a schedule for completion of such activities or may require Settling Defendants to submit a proposed schedule for EPA approval. Settling Defendants shall perform all activities described in the EPA notice in accordance with the schedule.
- (f) If EPA determines based on the initial or any subsequent Remedial Action Report, that the particular RA Project's Remedial Action Construction is complete, EPA shall so notify Settling Defendants.

## 6.8 Certification of Remedial Action Completion

- (a) **Remedial Action Completion Inspection.** The Remedial Action is "Complete" for purposes of this ¶ 6.8 when the Remedial Action, including all RA Projects, has been fully performed and the Performance Standards have been achieved. Settling Defendants shall schedule an inspection for the purpose of obtaining EPA's Certification of Remedial Action Completion. The inspection must be attended by Settling Defendants, EPA, MassDEP (at its option), and/or their representatives.
- (b) **Monitoring Report.** Following the inspection, Settling Defendants shall submit a Monitoring Report to EPA requesting EPA's Certification of Remedial Action Completion. The report must: (1) include certifications by a registered professional engineer and by Settling Defendants' Project Coordinator that the Remedial Action is complete; (2) be prepared in accordance with Chapter 2 (Remedial Action Completion) of EPA's *Close Out Procedures for NPL Sites* guidance (May 2011), as supplemented by *Guidance for Management of Superfund Remedies in Post Construction*, OLEM 9200.3-105 (Feb. 2017); (3) contain monitoring data to demonstrate that Performance Standards have been achieved; and (4) be certified in accordance with ¶ 8.5 (Certification).
- (c) If EPA concludes that the Remedial Action is not Complete, EPA shall so notify Settling Defendants. EPA's notice must include a description of any deficiencies. EPA's notice may include a schedule for addressing such deficiencies or may require Settling Defendants to submit a schedule for EPA approval. Settling Defendants shall perform all activities described in the notice in accordance with the schedule as established or approved or modified by EPA.
- (d) If EPA concludes based on the initial or any subsequent Monitoring Report requesting Certification of Remedial Action Completion, that the Remedial Action is Complete, EPA shall so certify to Settling Defendants. This certification



will constitute the Certification of Remedial Action Completion for purposes of the Decree, including Section XIII of the Decree (Covenants by Plaintiffs). Certification of Remedial Action Completion will not affect Settling Defendants' remaining obligations under the Decree.

**6.9 Periodic Review Support Plan (“PRSP”).** Settling Defendants shall submit the PRSP for EPA approval. The PRSP addresses the studies and investigations that Settling Defendants shall conduct to support EPA's reviews of whether the Remedial Action is protective of human health and the environment in accordance with CERCLA § 121(c) (also known as “Five-Year Reviews”). Settling Defendants shall develop the plan in accordance with *Comprehensive Five-Year Review Guidance*, OSWER 9355.7-03B-P (June 2001), and any other relevant five-year review guidances.

**6.10 Certification of Work Completion**

- (a) **Work Completion Inspection.** Settling Defendants shall schedule an inspection for the purpose of obtaining EPA's Certification of Work Completion. The inspection must be attended by Settling Defendants, EPA, MassDEP (at its option), and/or their representatives.
- (b) **Work Completion Report.** Following the inspection, Settling Defendants shall submit a report to EPA requesting EPA's Certification of Work Completion. The report must: (1) include certifications by a registered professional engineer and by Settling Defendants' Project Coordinator that the Work, including all O&M activities, is complete; and (2) be certified in accordance with ¶ 8.5 (Certification). If the Monitoring Report submitted under ¶ 6.8(b) includes all elements required under this ¶ 6.10(b), then the Monitoring Report suffices to satisfy all requirements under this ¶ 6.10(b).
- (c) If EPA concludes that the Work is not complete, EPA shall so notify Settling Defendants. EPA's notice must include a description of the activities that Settling Defendants must perform to complete the Work. EPA's notice must include specifications and a schedule for such activities or must require Settling Defendants to submit specifications and a schedule for EPA approval. Settling Defendants shall perform all activities described in the notice or in the EPA-approved specifications and schedule.
- (d) If EPA concludes based on the initial or any subsequent report requesting Certification of Work Completion, that the Work is complete, EPA shall so certify in writing to Settling Defendants. Issuance of the Certification of Work Completion does not affect continuing obligations, including the following: (1) activities under the Periodic Review Support Plan; (2) obligations under Sections VI (Property Requirements) and XVI (Records) of the Decree; (3) Institutional Controls obligations as provided in the ICIAP; and (4) reimbursement of Future Response Costs and State Future Response Costs under Section IX (Payments for Response Costs) of the Decree.

## 7. REPORTING

**7.1 Progress Reports.** Commencing with the month following lodging of the Decree and until EPA’s determination that Remedial Action Construction has been completed for the last RA Project, Settling Defendants shall submit progress reports to EPA, on a monthly basis, or as otherwise requested by EPA. The reports must cover material activities that took place during the prior reporting period, including:

- (a) The actions that have been taken toward achieving compliance with the Decree;
- (b) A summary of all results of sampling, tests, and all other data received or generated by Settling Defendants;
- (c) All validated data received or generated by Settling Defendants;
- (d) A description of all deliverables that Settling Defendants submitted to EPA;
- (e) A description of material activities relating to Remedial Design and Remedial Action that are scheduled for the following month;
- (f) A status update on the Remedial Design and Remedial Action Schedule, provided changes are substantive, including information regarding percentage of completion, delays encountered or anticipated that may affect the future schedule for implementation of the Work, and a description of efforts made to mitigate those delays or anticipated delays;
- (g) A description of any modifications to the work plans or schedules that Settling Defendants have proposed or that have been approved by EPA; and
- (h) A description of all activities undertaken in support of the Community Involvement Plan (“CIP”) during the reporting period and those to be undertaken in the next six weeks.

**7.2 Notice of Progress Report Schedule Changes.** If the schedule for any activity described in the Progress Reports, including activities required to be described under ¶ 7.1(e), changes, Settling Defendants shall notify EPA of such change at least seven days before performance of the activity or as soon as practicable.

## 8. DELIVERABLES

**8.1 Applicability.** Settling Defendants shall submit deliverables for EPA approval or for EPA comment as specified in the SOW. If neither is specified, the deliverable does not require EPA’s approval or comment. Paragraphs 8.2 (In Writing) through 8.4 (Technical Specifications) apply to all deliverables. Paragraph 8.5 (Certification) applies to any deliverable that is required to be certified. Paragraph 8.6 (Approval of Deliverables) applies to any deliverable that is required to be submitted for EPA approval.

**8.2 In Writing.** As provided in ¶ 69 of the Decree, all deliverables under this SOW must be in writing unless otherwise specified.

**8.3 General Requirements for Deliverables.** All deliverables must be submitted by the deadlines in the Remedial Design Schedules or Remedial Action Schedules, or if applicable EPA-approved revised Remedial Design Schedules or EPA-approved revised Remedial Action Schedules. Settling Defendants shall submit all deliverables to EPA and MassDEP in electronic form. Technical specifications for sampling and monitoring data and spatial data are addressed in ¶ 8.4. All other deliverables shall be submitted to EPA and MassDEP in the electronic form specified by the EPA Project Coordinator and MassDEP Project Coordinator. If any deliverable includes maps, drawings, or other exhibits that are larger than 11” by 17”, Settling Defendants shall also provide EPA and MassDEP with paper copies of such exhibits upon request by EPA or MassDEP.

#### **8.4 Technical Specifications**

- (a) Sampling and monitoring data shall be submitted in standard Staged Electronic Data Deliverable (“SEDD”) format, compatible with EPA Scribe software and EPA Superfund Contract Laboratory Program (“CLP”) reporting requirements. More information on Scribe is available at <http://www.response.epa.gov/Scribe>. More information on SEDDs is available at <https://www.epa.gov/clp/staged-electronic-data-deliverable-sedd>. Other delivery methods may be allowed if electronic direct submission presents a significant burden or as technology changes.
- (b) Spatial data, including spatially-referenced data and geospatial data, shall be submitted: (1) in ESRI-compatible spatial file format(s); and (2) as unprojected geographic coordinates in decimal degree format using North American Datum 1983 (“NAD83”) or World Geodetic System 1984 (“WGS84”) as the datum. If applicable, submissions shall include the collection method(s). Projected coordinates may optionally be included but must be documented. If requested by EPA, spatial data shall be accompanied by metadata, and such metadata shall be compliant with the Federal Geographic Data Committee (“FGDC”) Content Standard for Digital Geospatial Metadata and its EPA profile, the EPA Geospatial Metadata Technical Specification. An add-on metadata editor for ESRI software, the EPA Metadata Editor (“EME”), complies with these FGDC and EPA metadata requirements and is available at <https://edg.epa.gov/EME/>.
- (c) Each file must include an attribute name for each site unit or sub-unit submitted. Consult <https://www.epa.gov/geospatial/geospatial-policies-and-standards> for any further available guidance on attribute identification and naming.
- (d) Spatial data submitted by Settling Defendants does not, and is not intended to, define the boundaries of the Site.

- 8.5 Certification.** All deliverables that require compliance with this paragraph must be signed by the Settling Defendants' Project Coordinator, or other responsible official of Settling Defendants, and must contain the following statement:

I certify under penalty of perjury that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than 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.

**8.6 Approval of Deliverables**

(a) **Initial Submissions**

- (1) After review of any deliverable that is required to be submitted for EPA approval under the Decree or the SOW, EPA shall: (i) approve, in whole or in part, the submission; (ii) approve the submission upon specified conditions; (iii) disapprove, in whole or in part, the submission; or (iv) any combination of the foregoing.
- (2) EPA also may modify the initial submission to cure deficiencies in the submission if: (i) EPA determines that disapproving the submission and awaiting a resubmission would cause substantial disruption to the Work; or (ii) previous submission(s) have been disapproved due to material defects and the deficiencies in the initial submission under consideration indicate a bad faith lack of effort to submit an acceptable deliverable.

- (b) **Resubmissions.** Upon receipt of a notice of disapproval under ¶ 8.6(a) (Initial Submissions), or if required by a notice of approval upon specified conditions under ¶ 8.6(a), Settling Defendants shall, within 21 days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the deliverable for approval. After review of the resubmitted deliverable, EPA may: (1) approve, in whole or in part, the resubmission; (2) approve the resubmission upon specified conditions; (3) modify the resubmission; (4) disapprove, in whole or in part, the resubmission, requiring Settling Defendants to correct the deficiencies; or (5) any combination of the foregoing.

- (c) **Implementation.** Upon approval, approval upon conditions, or modification by EPA under ¶ 8.6(a) (Initial Submissions) or ¶ 8.6(b) (Resubmissions), of any deliverable, or any portion thereof: (1) such deliverable, or portion thereof, will be incorporated into and enforceable under the Decree; and (2) Settling Defendants

shall take any action(s) required by such deliverable, or any non-deficient portion thereof. The implementation of any non-deficient portion of a deliverable submitted or resubmitted under ¶ 8.6(a) or ¶ 8.6(b) does not relieve Settling Defendants of any liability for stipulated penalties under Section XII (Stipulated Penalties) of the Decree.

- (d) If: (1) an initially submitted deliverable contains a material defect and the conditions are met for modifying the deliverable under ¶ 8.6(a)(2); or (2) a resubmitted deliverable contains a material defect; then the material defect constitutes a lack of compliance for purposes of this Paragraph.

**8.7 Supporting Deliverables.** Settling Defendants shall submit each of the following supporting deliverables for EPA approval except as specifically provided. Settling Defendants shall develop the deliverables in accordance with all applicable regulations, guidances, and policies (see Section 10 (References)). Settling Defendants shall update each of these supporting deliverables as necessary or appropriate during the course of the Work, including for each RA Project, and/or as requested by EPA.

- (a) **Health and Safety Plan (“HASP”).** The HASP describes all activities to be performed to protect on site personnel and area residents from physical, chemical, and all other hazards posed by the Work. Settling Defendants shall develop the HASP in accordance with EPA’s *Emergency Responder Health and Safety Manual* and Occupational Safety and Health Administration (“OSHA”) requirements under 29 C.F.R. §§ 1910 and 1926. The HASP should cover Remedial Design activities and should be, as appropriate, updated to cover activities during the Remedial Action and updated to cover activities after Remedial Action completion. EPA does not approve the HASP but will review it to ensure that all necessary elements are included and that the plan provides for the protection of human health and the environment.
- (b) **Emergency Response Plan (“ERP”).** The ERP must describe procedures to be used in the event of an accident or emergency at the Site (for example, power outages, water impoundment failure, treatment plant failure, slope failure, etc.). The ERP must include:
- (1) Name of the person or entity responsible for responding in the event of an emergency incident;
  - (2) Plan and date(s) for meeting(s) with the local community, including local, State, and federal agencies involved in the emergency response, oversight, or cleanup, as well as local emergency squads and hospitals;
  - (3) Spill Prevention, Control, and Countermeasures (“SPCC”) Plan (if applicable), consistent with the regulations under 40 C.F.R. part 112, describing measures to prevent, and contingency plans for, spills and discharges;

- (4) Notification activities in accordance with ¶ 6.5(b) (Release Reporting) in the event of a release of hazardous substances requiring reporting under CERCLA § 103 or EPCRA § 304 or a release of hazardous materials requiring reporting under Chapter 21E and the MCP; and
  - (5) A description of all necessary actions to ensure compliance with ¶ 6.5 of the SOW in the event of an occurrence during the performance of the Work that causes or threatens a release of Waste Material from the Site that constitutes an emergency or may present an immediate threat to public health or welfare or the environment.
- (c) **Field Sampling Plan (“FSP”).** The FSP addresses all sample collection activities. The FSP must be written so that a field sampling team unfamiliar with the project would be able to gather the samples and field information required. Settling Defendants shall develop the FSP in accordance with *Guidance for Conducting Remedial Investigations and Feasibility Studies*, EPA/540/G 89/004 (Oct. 1988).
  - (d) **Quality Assurance Project Plan (“QAPP”).** The QAPP augments the FSP and addresses sample analysis and data handling regarding the Work. The QAPP must include a detailed explanation of Settling Defendants’ quality assurance, quality control, and chain of custody procedures for all treatability, design, compliance, and monitoring samples. Settling Defendants shall develop the QAPP in accordance with EPA Directive CIO 2105.1 (Environmental Information Quality Policy, 2021), the most recent version of *Quality Management Systems for Environmental Information and Technology Programs – Requirements with Guidance for Use*, ASQ/ANSI E-4 (Feb. 2014), and *Guidance for Quality Assurance Project Plans*, EPA QA/G-5, EPA Office of Environmental Information (Dec. 2002). Settling Defendants shall collect, produce, and evaluate all environmental information at the Site in accordance with the approved QAPP.
  - (e) **Site Wide Monitoring Plan (“SWMP”).** The purpose of the SWMP is to obtain baseline information regarding the extent of contamination in affected media at the Site; to obtain information, through short- and long- term monitoring, about the movement of and changes in contamination throughout the Site, before and during implementation of the Remedial Action; to obtain information regarding contamination levels to determine whether Performance Standards are achieved; and to obtain information to determine whether to perform additional actions, including further Site monitoring. The SWMP must include:
    - (1) Description of the environmental media to be monitored;
    - (2) Description of the data collection parameters, including existing and proposed monitoring devices and locations, schedule and frequency of monitoring, analytical parameters to be monitored, and analytical methods employed;

- (3) Description of how performance data will be analyzed, interpreted, and reported, and/or other Site-related requirements;
  - (4) Description of verification sampling procedures;
  - (5) Description of deliverables that will be generated in connection with monitoring, including sampling schedules, laboratory records, monitoring reports, and progress reports;
  - (6) Description of proposed additional monitoring and data collection actions (such as increases in frequency of monitoring, and/or installation of additional monitoring devices in the affected areas) in the event that results from monitoring devices indicate changed conditions (such as higher than expected concentrations of the contaminants of concern or groundwater contaminant plume movement);
  - (7) A plan to immediately provide to EPA any unvalidated sampling data from Community Areas as defined in ¶ 8.7(f) affected by the remedy that exceed removal management levels or three times remedial cleanup levels, whichever is lower; and
  - (8) A plan to expedite sampling and analysis in Community Areas as defined in ¶ 8.7(f) affected by the remedy (particularly in situations where EPA determines that unvalidated sampling data indicates substantial exceedances of cleanup standards), including procedures for expedited analysis, validation, and communication of sampling results to affected communities.
- (f) **Community Impacts Mitigation Plan (“CIMP”).** The CIMP describes all activities to be performed: (1) to reduce and manage the impacts from remedy implementation (*e.g.*, air emissions, traffic, noise, odor, temporary or permanent relocation) to residential areas, schools, parks, playgrounds, healthcare facilities, or recreational or impacted public areas (“Community Areas”) from and during remedy implementation, (2) to conduct monitoring in Community Areas of impacts from remedy implementation, (3) to expeditiously communicate validated remedy implementation monitoring data, (4) to make adjustments during remedy implementation in order to further reduce and manage impacts from remedy implementation to affected Community Areas, (5) to expeditiously restore community resources damaged during remediation such as roads and culverts, and (6) to mitigate the economic effects that the Remedial Action will have on the community by structuring remediation contracts to allow more local business participation. The CIMP should contain information about impacts to Community Areas that is sufficient to assist EPA’s Project Coordinator in performing the evaluations recommended under the *Superfund Community Involvement Handbook*, OLEM 9230.0-51 (March 2020), pp. 53-56.

- (g) **Construction Quality Assurance Plan (“CQAP”) and Construction Quality Control Plan (“CQCP”).** The purpose of the CQAP is to describe planned and systemic activities that provide confidence that the Remedial Action construction will satisfy all plans, specifications, and related requirements, including quality objectives. The purpose of the CQCP is to describe the activities to verify that Remedial Action construction has satisfied all plans, specifications, and related requirements, including quality objectives. The CQAP/CQCP (“CQA/CP”) must:
- (1) Identify, and describe the responsibilities of, the organizations and personnel implementing the CQA/CP;
  - (2) Describe the Performance Standards required to be met to achieve Completion of the Remedial Action;
  - (3) Describe the activities to be performed: (i) to provide confidence that Performance Standards will be met; and (ii) to determine whether Performance Standards have been met;
  - (4) Describe verification activities, such as inspections, sampling, testing, monitoring, and production controls, under the CQA/CP;
  - (5) Describe industry standards and technical specifications used in implementing the CQA/CP;
  - (6) Describe procedures for tracking construction deficiencies from identification through corrective action;
  - (7) Describe procedures for documenting all CQA/CP activities; and
  - (8) Describe procedures for retention of documents and for final storage of documents.
- (h) **Transportation and Off-Site Disposal Plan (“TODP”).** The TODP describes plans to ensure compliance with ¶ 6.6 (Off-Site Shipments). The TODP must include:
- (1) Proposed times and routes for off-site shipment of Waste Material;
  - (2) Identification of communities, including underserved communities referred to in Executive Order 14008, § 222(b) (Feb. 1, 2021), affected by shipment of Waste Material; and
  - (3) Description of plans to minimize impacts (e.g., noise, traffic, dust, odors) on affected communities.
- (i) **O&M Plan.** The O&M Plan describes the requirements for inspecting, operating, and maintaining the Remedial Action. Settling Defendants shall develop the O&M Plan in accordance with *Guidance for Management of Superfund Remedies*



*in Post Construction*, OLEM 9200.3-105 (Feb. 2017). The O&M Plan must include the following additional requirements:

- (1) Description of Performance Standards required to be met to implement the Record of Decision;
  - (2) Description of activities to be performed: (i) to provide confidence that Performance Standards will be met; and (ii) to determine whether Performance Standards have been met;
  - (3) **O&M Reporting.** Description of records and reports that will be generated during O&M, such as daily operating logs, laboratory records, records of operating costs, reports regarding emergencies, personnel and maintenance records, monitoring reports, and progress reports;
  - (4) Description of corrective action in case of systems failure, including:
    - (i) alternative procedures to prevent the release or threatened release of Waste Material which may endanger public health and the environment or may cause a failure to achieve Performance Standards;
    - (ii) analysis of vulnerability and additional resource requirements should a failure occur;
    - (iii) notification and reporting requirements should O&M systems fail or be in danger of imminent failure; and
    - (iv) community notification requirements; and
  - (5) Description of corrective action to be implemented in the event that Performance Standards are not achieved; and a schedule for implementing these corrective actions.
- (j) **O&M Manual.** The O&M Manual serves as a guide to the purpose and function of the equipment and systems that make up the remedy. Settling Defendants shall develop the O&M Manual in accordance with *Guidance for Management of Superfund Remedies in Post Construction*, OLEM 9200.3-105 (Feb. 2017).

## 9. SCHEDULES

**9.1 Applicability and Revisions.** All deliverables and tasks required under this SOW must be submitted or completed by the deadlines or within the time durations listed in the Remedial Design and Remedial Action Schedules set forth below and the deadlines or within the time durations set forth in EPA-approved or EPA-modified deliverables. Settling Defendants may submit proposed revised Remedial Design Schedules or Remedial Action Schedules for EPA approval. Upon EPA's approval, the revised Remedial Design and/or Remedial Action Schedules supersede the Remedial Design and Remedial Action Schedules set forth below, and any previously-approved Remedial Design and/or Remedial Action Schedules.

## 9.2 Remedial Design Schedule

<b><u>RD Schedule – DAPL/GWHS, LNAPL, Surface Water, Soil, Sediments</u></b>			
	<b>Description of Deliverable/Task</b>	<b>¶ Ref.</b>	<b>Deadline</b>
1	Draft RDWP	5.1	90 days after EPA Authorization to Proceed regarding Supervising Contractor (¶ 4.3)
2	Draft OU1/OU2 Final Action ICIAP	5.2	90 days after EPA Authorization to Proceed regarding Supervising Contractor (¶ 4.3)
3	Draft OU3 Interim Action ICIAP	5.2	90 days after EPA Authorization to Proceed regarding Supervising Contractor (¶ 4.3)
4	Final RDWP	5.1	60 days after EPA comments on Draft RDWP
5	Final OU1/OU2 Final Action ICIAP	5.2	60 days after EPA comments on Draft OU1/OU2 Final Action ICIAP
6	Final OU3 Interim Action ICIAP	5.2	60 days after EPA comments on Draft OU3 Interim Action ICIAP
<b><u>RD Schedule – DAPL and Groundwater Hot Spots Extraction and Treatment</u></b>			
	<b>Description of Deliverable/Task</b>	<b>¶ Ref.</b>	<b>Deadline</b>
1	Draft PDIWP	5.4(a)	105 days after EPA approval of RDWP
2	Final PDIWP	5.4(a)	60 days after EPA comments on Draft PDIWP
3	Draft PDI Evaluation Report	5.4(b)	105 days after completion of PDI
4	Final PDI Evaluation Report	5.4(b)	60 days after EPA comments on Draft PDI Evaluation Report
5	Preliminary (30%) Remedial Design	5.6	75 Days after the later of EPA approval of Final PDI Evaluation Report or EPA approval of the Treatability Study Report for DAPL and groundwater hot spots under the RI/FS AOC
6	Intermediate (60%) Remedial Design	5.7	75 Days after EPA comments on the Preliminary Remedial Design
7	Pre-Final (95%) Remedial Design	5.8	75 Days after EPA comments on the Intermediate Remedial Design or the Preliminary Remedial Design if EPA approves the omission of the Intermediate Remedial Design
8	Final (100%) Remedial Design	5.9	30 Days after EPA comments on the Pre-Final Remedial Design

<b><u>RD Schedule – Upland Soil Remediation</u></b>			
	<b>Description of Deliverable/Task</b>	<b>¶ Ref.</b>	<b>Deadline</b>
1	Draft PDIWP	5.4(a)	90 Days after EPA approval of RDWP
2	Final PDIWP	5.4(a)	45 Days after EPA comments on Draft PDIWP
3	Draft PDI Evaluation Report	5.4(b)	105 days after completion of PDI
4	Final PDI Evaluation Report	5.4(b)	60 days after EPA comments on Draft PDI Evaluation Report
5	Preliminary (30%) Remedial Design	5.6	75 Days after EPA approval of Final PDI Evaluation Report
6	Intermediate (60%) Remedial Design	5.7	45 Days after EPA comments on the Preliminary Remedial Design
7	Pre-Final (95%) Remedial Design	5.8	45 Days after EPA comments on the Intermediate Remedial Design or the Preliminary Remedial Design if EPA approves the omission of the Intermediate Remedial Design
8	Final (100%) Remedial Design	5.9	30 Days after EPA comments on the Pre-Final Remedial Design
<b><u>RD Schedule – LNAPL Remediation</u></b>			
	<b>Description of Deliverable/Task</b>	<b>¶ Ref.</b>	<b>Deadline</b>
1	Connection of Plant B wells to DAPL and Groundwater Hot Spots Extraction and Treatment System		90 days after Completion of Construction of the DAPL and Groundwater Hot Spots Extraction and Treatment RA Project
2	Initiation of Demolition of Plant B		30 days after Connection of Plant B wells to DAPL and Groundwater Hot Spots Extraction and Treatment System
3	Completion of Demolition of Plant B		365 days after Connection of Plant B wells to DAPL and Groundwater Hot Spots Extraction and Treatment System
4	Draft PDIWP	5.4(a)	90 days after later of EPA approval of RDWP or Completion of Construction of the DAPL and Groundwater Hot Spots Extraction and Treatment RA Project
5	Final PDIWP	5.4(a)	45 Days after EPA comments on Draft PDIWP
6	Draft PDI Evaluation Report	5.4(b)	105 days after completion of PDI
7	Final PDI Evaluation Report	5.4(b)	60 days after EPA comments on Draft PDI Evaluation Report

8	Preliminary (30%) Remedial Design	5.6	75 Days after EPA approval of Final PDI Evaluation Report
9	Intermediate (60%) Remedial Design	5.7	45 Days after EPA comments on the Preliminary Remedial Design
10	Pre-Final (95%) Remedial Design	5.8	45 Days after EPA comments on the Intermediate Remedial Design or the Preliminary Remedial Design if EPA approves the omission of the Intermediate Remedial Design
11	Final (100%) Remedial Design	5.9	30 Days after EPA comments on the Pre-Final Remedial Design
<b><u>RD Schedule – Surface Water Remediation</u></b>			
	<b>Description of Deliverable/Task</b>	<b>¶ Ref.</b>	<b>Deadline</b>
1	Draft PDIWP	5.4(a)	90 Days after the Shakedown Period of the DAPL and Groundwater Hot Spots Extraction and Treatment RA Project
2	Final PDIWP	5.4(a)	45 Days after EPA comments on Draft PDIWP
3	Draft PDI Evaluation Report	5.4(b)	105 days after completion of PDI
4	Final PDI Evaluation Report	5.4(b)	60 days after EPA comments on Draft PDI Evaluation Report
5	Preliminary (30%) Remedial Design	5.6	75 Days after EPA approval of Final PDI Evaluation Report
6	Intermediate (60%) Remedial Design	5.7	45 Days after EPA comments on the Preliminary Remedial Design
7	Pre-Final (95%) Remedial Design	5.8	45 Days after EPA comments on the Intermediate Remedial Design or the Preliminary Remedial Design if EPA approves the omission of the Intermediate Remedial Design
8	Final (100%) Remedial Design	5.9	30 Days after EPA comments on the Pre-Final Remedial Design
<b><u>RD Schedule – Wetland Soil and Sediments Remediation</u></b>			
	<b>Description of Deliverable/Task</b>	<b>¶ Ref.</b>	<b>Deadline</b>
1	Draft PDIWP	5.4(a)	30 Days after the Shakedown Period of the Surface Water Remediation RA Project
2	Final PDIWP	5.4(a)	45 Days after EPA comments on Draft PDIWP
3	Draft PDI Evaluation Report	5.4(b)	105 days after completion of PDI
4	Final PDI Evaluation Report	5.4(b)	60 days after EPA comments on Draft PDI Evaluation Report

5	Preliminary (30%) Remedial Design	5.6	75 Days after EPA approval of Final PDI Evaluation Report
6	Intermediate (60%) Remedial Design	5.7	45 Days after EPA comments on the Preliminary Remedial Design
7	Pre-Final (95%) Remedial Design	5.8	45 Days after EPA comments on the Intermediate Remedial Design or the Preliminary Remedial Design if EPA approves the omission of the Intermediate Remedial Design
8	Final (100%) Remedial Design	5.9	30 Days after EPA comments on the Pre-Final Remedial Design

### 9.3 Remedial Action Schedule

<b><u>RA Schedule – DAPL and Groundwater Hot Spots Extraction and Treatment</u></b>			
	<b>Description of Deliverable/Task</b>	<b>¶ Ref.</b>	<b>Deadline</b>
1	Award Remedial Action Contract		105 days after EPA approval of the Final Remedial Design
2	Draft RAWP	6.1	105 days after EPA approval of the Final Remedial Design
3	Final RAWP	6.1	60 days after EPA comments on Draft RAWP
4	Designate IQAT and Pre-Construction Conference	6.2; 6.3(a)	10 days after EPA approval of Final RAWP
5	Start of Construction		30 days after EPA approval of Final RAWP
6	Completion of Construction		
7	Pre-Final Inspection	6.7(b)	21 days after Completion of Construction
8	Pre-Final Inspection Report	6.7(b)	30 days after Pre-Final Inspection
9	Final Inspection	6.7(b)	21 days after Completion of Work identified in Pre-Final Inspection Report
10	Commence Operation of the System	6.7(c)	90 days after Final Inspection
11	Remedial Action Report	6.7(d)	21 days after the Shakedown Period
<b><u>RA Schedule – Upland Soil Remediation</u></b>			
	<b>Description of Deliverable/Task</b>	<b>¶ Ref.</b>	<b>Deadline</b>
1	Award Remedial Action Contract		75 Days after EPA approval of the Final Remedial Design
2	Draft RAWP	6.1	75 Days after EPA approval of the Final Remedial Design

3	Final RAWP	6.1	45 days after EPA comments on Draft RAWP
4	Designate IQAT and Pre-Construction Conference	6.2; 6.3(a)	10 days after EPA approval of Final RAWP
5a	Start of Construction – Soils (Excluding Containment Area)		30 days after EPA approval of Final RAWP
5b	Start of Construction – Soils (Containment Area)	6.1(a)	30 days after the later of EPA approval of Final RAWP or Completion of Construction of the Containment Area extraction wells and conveyance system associated with the DAPL and Groundwater Hot Spots Extraction and Treatment RA Project
6	Completion of Construction		
7	Pre-Final Inspection	6.7(b)	21 days after Completion of Construction
8	Pre-Final Inspection Report	6.7(b)	30 days after Pre-Final Inspection
9	Final Inspection	6.7(b)	21 days after Completion of Work identified in Pre-Final Inspection Report
10	Remedial Action Report	6.7(d)	21 days after Final Inspection

**RA Schedule – LNAPL Remediation**

	<b>Description of Deliverable/Task</b>	<b>¶ Ref.</b>	<b>Deadline</b>
1	Award Remedial Action Contract		75 Days after EPA approval of the Final Remedial Design
2	Draft RAWP	6.1	75 Days after EPA approval of the Final Remedial Design
3	Final RAWP	6.1	45 days after EPA comments on Draft RAWP
4	Designate IQAT and Pre-Construction Conference	6.2; 6.3(a)	10 days after EPA approval of Final RAWP
5	Start of Construction		30 days after EPA approval of Final RAWP
6	Completion of Construction		
7	Pre-Final Inspection	6.7(b)	21 days after Completion of Construction
8	Pre-Final Inspection Report	6.7(b)	30 days after Pre-Final Inspection
9	Final Inspection	6.7(b)	21 days after Completion of Work identified in Pre-Final Inspection Report
10	Commence Operation of the System	6.7(c)	30 days after Final Inspection
11	Remedial Action Report	6.7(d)	21 days after Shakedown Period

<b><u>RA Schedule – Surface Water Remediation</u></b>			
	<b>Description of Deliverable/Task</b>	<b>¶ Ref.</b>	<b>Deadline</b>
1	Award Remedial Action Contract		75 days after EPA approval of the Final Remedial Design
2	Draft RAWP	6.1	75 days after EPA approval of the Final Remedial Design
3	Final RAWP	6.1	45 days after EPA comments on Draft RAWP
4	Designate IQAT and Pre-Construction Conference	6.2; 6.3(a)	10 days after EPA approval of Final RAWP
5	Start of Construction		30 days after EPA approval of Final RAWP
6	Completion of construction		
7	Pre-Final Inspection	6.7(b)	21 days after Completion of Construction
8	Pre-Final Inspection Report	6.7(b)	30 days after Pre-Final Inspection
9	Final Inspection	6.7(b)	21 days after Completion of Work identified in Pre-Final Inspection Report
10	Commence Operation of the System	6.7(c)	90 days after Final Inspection
11	Remedial Action Report	6.7(d)	21 days after the Shakedown Period
<b><u>RA Schedule – Wetland Soil and Sediments Remediation</u></b>			
	<b>Description of Deliverable/Task</b>	<b>¶ Ref.</b>	<b>Deadline</b>
1	Award Remedial Action Contract		75 Days after EPA approval of the Final Remedial Design
2	Draft RAWP	6.1	75 Days after EPA approval of the Final Remedial Design
3	Final RAWP	6.1	45 Days after EPA comments on Draft RAWP
4	Designate IQAT and Pre-Construction Conference	6.2; 6.3(a)	10 days after EPA approval of Final RAWP
5	Start of Construction		30 days after EPA approval of Final RAWP
6	Completion of construction		
7	Pre-Final Inspection	6.7(b)	21 days after Completion of Construction
8	Pre-Final Inspection Report	6.7(b)	30 days after Pre-Final Inspection
9	Final Inspection	6.7(b)	21 days after Completion of Work identified in Pre-Final Inspection Report
10	Remedial Action Report	6.7(d)	21 days after Final Inspection

<b>RA Schedule – DAPL/GWHS, LNAPL, Surface Water, Soil, Sediments</b>			
	<b>Description of Deliverable/Task</b>	<b>¶ Ref.</b>	<b>Deadline</b>
1	Monitoring Report	6.8(b)	30 days after Remedial Action Completion Inspection
2	Work Completion Report	6.10(b)	30 days after Work Completion Inspection
3	Periodic Review Support Plan	6.9	Three years after Start of Construction for the First RA Project

## **10. REFERENCES**

**10.1** The following regulations and guidance documents, among others, apply to the Work. Any item for which a specific URL is not provided below is available on one of the three EPA web pages listed in ¶ 10.2:

- (a) A Compendium of Superfund Field Operations Methods, OSWER 9355.0-14, EPA/540/P-87/001a (Aug. 1987).
- (b) CERCLA Compliance with Other Laws Manual, Part I: Interim Final, OSWER 9234.1-01, EPA/540/G-89/006 (Aug. 1988).
- (c) Guidance for Conducting Remedial Investigations and Feasibility Studies, OSWER 9355.3-01, EPA/540/G-89/004 (Oct. 1988).
- (d) CERCLA Compliance with Other Laws Manual, Part II, OSWER 9234.1-02, EPA/540/G-89/009 (Aug. 1989).
- (e) Guidance on EPA Oversight of Remedial Designs and Remedial Actions Performed by Potentially Responsible Parties, OSWER 9355.5-01, EPA/540/G90/001 (Apr. 1990).
- (f) Guidance on Expediting Remedial Design and Remedial Actions, OSWER 9355.5-02, EPA/540/G-90/006 (Aug. 1990).
- (g) Guide to Management of Investigation-Derived Wastes, OSWER 9345.3-03FS (Jan. 1992).
- (h) Permits and Permit Equivalency Processes for CERCLA On-Site Response Actions, OSWER 9355.7-03 (Feb. 1992).
- (i) Guidance for Conducting Treatability Studies under CERCLA, OSWER 9380.3-10, EPA/540/R-92/071A (Nov. 1992).
- (j) National Oil and Hazardous Substances Pollution Contingency Plan; Final Rule, 40 C.F.R. part 300 (Oct. 1994).



- (k) Guidance for Scoping the Remedial Design, OSWER 9355.0-43, EPA/540/R-95/025 (Mar. 1995).
- (l) Remedial Design/Remedial Action Handbook, OSWER 9355.0-04B, EPA/540/R-95/059 (June 1995).
- (m) EPA Guidance for Data Quality Assessment, Practical Methods for Data Analysis, QA/G-9, EPA/600/R-96/084 (July 2000).
- (n) Comprehensive Five-year Review Guidance, OSWER 9355.7-03B-P, EPA/540-R-01-007 (June 2001).
- (o) Guidance for Quality Assurance Project Plans, EPA QA/G-5, EPA Office of Environmental Information (Dec. 2002) <https://www.epa.gov/quality/guidance-quality-assurance-project-plans-epa-qag-5>.
- (p) Institutional Controls: Third-Party Beneficiary Rights in Proprietary Controls, OECA (Apr. 2004).
- (q) EPA Guidance on Systematic Planning Using the Data Quality Objectives Process, QA/G-4, EPA/240/B-06/001 (Feb. 2006).
- (r) EPA Requirements for Quality Management Plans, QA/R-2, EPA/240/B-01/002 (Mar. 2001, reissued May 2006).
- (s) EPA National Geospatial Data Policy, CIO Policy Transmittal 05-002 (Aug. 2005), <https://www.epa.gov/geospatial/epa-national-geospatial-data-policy>.
- (t) Summary of Key Existing EPA CERCLA Policies for Groundwater Restoration, OSWER 9283.1-33 (June 2009).
- (u) Principles for Greener Cleanups (Aug. 2009), <https://www.epa.gov/greenercleanups/epa-principles-greener-cleanups>.
- (v) Providing Communities with Opportunities for Independent Technical Assistance in Superfund Settlements, Interim (Sep. 2009).
- (w) Close Out Procedures for National Priorities List Sites, OSWER 9320.2-22 (May 2011).
- (x) Groundwater Road Map: Recommended Process for Restoring Contaminated Groundwater at Superfund Sites, OSWER 9283.1-34 (July 2011).
- (y) Recommended Evaluation of Institutional Controls: Supplement to the “Comprehensive Five-Year Review Guidance,” OSWER 9355.7-18 (Sep. 2011).
- (z) Plan EJ 2014: Legal Tools, EPA Office of General Counsel (Dec. 2011), <https://www.epa.gov/environmentaljustice/plan-ej-2014-legal-tools>.

- (aa) Construction Specifications Institute's MasterFormat 2020, available from the Construction Specifications Institute, <https://www.csinet.org/masterformat>.
- (bb) Updated Superfund Response and Settlement Approach for Sites Using the Superfund Alternative Approach, OSWER 9200.2-125 (Sep. 2012)
- (cc) Institutional Controls: A Guide to Planning, Implementing, Maintaining, and Enforcing Institutional Controls at Contaminated Sites, OSWER 9355.0-89, EPA/540/R-09/001 (Dec. 2012), <https://semspub.epa.gov/work/HQ/175446.pdf>.
- (dd) Institutional Controls: A Guide to Preparing Institutional Controls Implementation and Assurance Plans at Contaminated Sites, OSWER 9200.0-77, EPA/540/R-09/02 (Dec. 2012), <https://semspub.epa.gov/work/HQ/175449.pdf>.
- (ee) EPA's Emergency Responder Health and Safety Manual, OSWER 9285.3-12 (July 2005 and updates), [https://www.epaosc.org/\\_HealthSafetyManual/manual-index.htm](https://www.epaosc.org/_HealthSafetyManual/manual-index.htm).
- (ff) Broader Application of Remedial Design and Remedial Action Pilot Project Lessons Learned, OSWER 9200.2-129 (Feb. 2013).
- (gg) Guidance for Evaluating Completion of Groundwater Restoration Remedial Actions, OSWER 9355.0-129 (Nov. 2013).
- (hh) Groundwater Remedy Completion Strategy: Moving Forward with the End in Mind, OSWER 9200.2-144 (May 2014).
- (ii) Quality Management Systems for Environmental Information and Technology Programs -- Requirements with Guidance for Use, ASQ/ANSI E-4 (February 2014), available at <https://webstore.ansi.org/>.
- (jj) Guidance for Management of Superfund Remedies in Post Construction, OLEM 9200.3-105 (Feb. 2017), <https://www.epa.gov/superfund/superfund-post-construction-completion>.
- (kk) Advanced Monitoring Technologies and Approaches to Support Long-Term Stewardship (July 20, 2018), <https://www.epa.gov/enforcement/use-advanced-monitoring-technologies-and-approaches-support-long-term-stewardship>.
- (ll) Superfund Community Involvement Handbook, OLEM 9230.0-51 (March 2020). More information on Superfund community involvement is available on the Agency's Superfund Community Involvement Tools and Resources web page at <https://www.epa.gov/superfund/superfund-community-involvement-tools-and-resources>.
- (mm) EPA directive CIO 2105.1 (Environmental Information Quality Policy, 2021), [https://www.epa.gov/sites/production/files/2021-04/documents/environmental\\_information\\_quality\\_policy.pdf](https://www.epa.gov/sites/production/files/2021-04/documents/environmental_information_quality_policy.pdf).

- 10.2** A more complete list may be found on the following EPA web pages:
- (a) Laws, Policy, and Guidance at <https://www.epa.gov/superfund/superfund-policy-guidance-and-laws>;
  - (b) Search Superfund Documents at <https://www.epa.gov/superfund/search-superfund-documents>; and
  - (c) Test Methods Collections at: <https://www.epa.gov/measurements/collection-methods>.
- 10.3** For any regulation or guidance referenced in the Decree or SOW, the reference will be read to include any subsequent modification, amendment, or replacement of such regulation or guidance. Such modifications, amendments, or replacements apply to the Work only after Settling Defendants receive notification from EPA of the modification, amendment, or replacement.

**Attachment 1**

**Model Notice of Activity and Use Limitation  
and  
Model IC Design Statement**

**Final Model Notice of Activity and Use Limitation: October 31, 2014**

Note: Pursuant to 310 CMR 40.1074(5), upon transfer of any interest in or a right to use the property or a portion thereof that is subject to this Notice of Activity and Use Limitation, the Notice of Activity and Use Limitation shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer. Within 30 days of so incorporating the Notice of Activity and Use Limitation in a deed that is recorded or registered, a copy of such deed shall be submitted to the Department of Environmental Protection.

[CONFIRMATORY] NOTICE OF ACTIVITY AND USE LIMITATION

42 U.S.C. § 9601, *et seq.*; 40 CFR Part 300; M.G.L. c. 21E, § 6; and 310 CMR 40.0000

*[Note: This Notice of Activity and Use Limitation has been [recorded]/[filed] pursuant to 310 CMR 40.0111 as part of an institutional control for a site that is both a federal Superfund site, listed on the National Priorities List pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, and a disposal site under M.G.L. c. 21E.]*

Superfund Site Name: \_\_\_\_\_  
Site Location: \_\_\_\_\_ [Town/City], MA  
EPA Site Identification Number: \_\_\_\_\_  
MassDEP Release Tracking No.(s): \_\_\_\_\_

This [*Confirmatory*] Notice of Activity and Use Limitation (“Notice”) is made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ [*Name and address of property owner(s)*], together with his/her/its/their successors and assigns (collectively “Owner”). All capitalized terms used herein without definition shall have the meaning given to them in the Massachusetts Oil and Hazardous Materials Release, Prevention and Response Act, M.G.L. c. 21E, as amended (“Chapter 21E”) and the Massachusetts Contingency Plan, 310 CMR 40.0000, as amended (the “MCP”).

W I T N E S S E T H:

WHEREAS, \_\_\_\_\_ [*Name of Owner(s)*], [*is*][*are*] the owner(s) in fee simple of [*that*][*those*] certain parcel(s) of [*vacant*] land located in \_\_\_\_\_ [Town/City], \_\_\_\_\_ County, Massachusetts [*with the buildings and improvements thereon*], pursuant to [*a deed recorded with the \_\_\_\_\_ Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_*]; [*source of title other than by deed*]; and/or [*Certificate of Title No. \_\_\_\_\_ issued by the Land Registration Office of the \_\_\_\_\_ Registry District*], said parcel(s) of land more particularly bounded and described in Exhibit A attached hereto and made a part hereof (the

“Property”);

WHEREAS, the Property is shown on [a plan recorded in the \_\_\_\_\_ Registry of Deeds in Plan Book \_\_\_\_\_, Plan \_\_\_\_\_], and/or on [Land Court Plan No. \_\_\_\_\_];

[Pick clause A or B below, as appropriate]

A. [If the Owner is a Settling Defendant to a CERCLA Consent Decree:]

WHEREAS, the Owner is a Settling Party to a judicial consent decree with the United States [and the Commonwealth of Massachusetts] (“Consent Decree”), pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. § 9601 *et seq.* [and Chapter 21E], for the [name of Superfund Site],[citation to the Consent Decree], under Section \_\_\_\_ of the Consent Decree, the Owner being obligated to establish and comply with Institutional Controls (as that term is defined in the Consent Decree) with respect to the Property;

B. [If the Owner is a Settling Respondent to a Prospective Purchaser Agreement with the United States Environmental Protection Agency (EPA)]

WHEREAS, Owner is a Settling Respondent to an [Agreement and Covenant Not to Sue], Docket No. CERCLA \_\_\_\_\_ (the “Agreement”) with the United States Environmental Protection Agency, an agency established under the laws of the United States (“EPA”), having its New England regional office at Five Post Office Square, Boston, Massachusetts 02109, the Agreement having been entered into pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. § 9601 *et seq.*, and obligating the Owner under Section \_\_ thereof to establish and comply with Institutional Controls (as that term is defined in the Agreement) with respect to the Property;

WHEREAS, certain portion(s) of the Property have been designated \_\_\_\_\_ [list names of each type of restricted area, such as “Area A” or the “Cap Area” – this reference and the legal descriptions and survey plan must use internally consistent terminology] (collectively, all of the foregoing areas comprising the “Restricted Areas”), the Restricted Areas being more particularly bounded and described in Exhibit B, attached hereto and made a part hereof, and being shown on a plan recorded with the \_\_\_\_\_ Registry of Deeds in Plan Book \_\_\_\_\_, Plan \_\_\_\_\_ (“Plan of Restricted Areas”), a photo-reduced version of which is attached hereto as Exhibit C;

WHEREAS, pursuant to [Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9605 (“CERCLA”)] [if CERCLA previously defined then “Section 105 of CERCLA, 42 U.S.C. § 9605,] and the National Contingency Plan, 40 CFR §§ 300.1, *et seq.* (the “NCP”), the [United States Environmental Protection Agency, an agency established under the laws of the United States (“EPA”), having its New England regional office at Five Post Office Square, Boston, Massachusetts 02109 (“Region 1”)] [if EPA previously defined then “EPA”], placed land [containing] [within] the

Property on the National Priorities List, set forth at 40.C.F.R. Part 300, Appendix B, by publication in the Federal Register on \_\_\_\_\_, \_\_\_ Fed. Reg. \_\_\_\_\_, due to a release of hazardous substances, as that term is defined by the Section 104 of CERCLA, 42 U.S.C. § 9604 (“Hazardous Substances”), such land being a federal Superfund Site known as the \_\_\_\_\_ Superfund Site (“Superfund Site”);

WHEREAS, pursuant to Chapter 21E and the MCP, the Massachusetts Department of Environmental Protection, an agency established under the laws of the Commonwealth of Massachusetts, having its principal office at One Winter Street, Boston, Massachusetts 02108 (“MassDEP”), assigned to releases of oil and/or hazardous materials occurring at, from or onto the Property MassDEP Release Tracking Number(s) \_\_\_\_\_, and all places where such oil and/or hazardous materials have come to be located are a disposal site under Chapter 21E and the MCP (the “Disposal Site”);

WHEREAS, the Plan of Restricted Areas shows the relationship of the Property and the Restricted Areas to the boundaries of the Superfund Site and Disposal Site, to the extent such boundaries have been established;

WHEREAS, in a document entitled, “Record of Decision, \_\_\_\_\_ Superfund Site,” dated \_\_\_\_\_ [include in this definition any ROD Amendments or Explanations of Significant Differences] (collectively, the “ROD”), said ROD being on file at the EPA Region I Record Center located at Five Post Office Square, Boston, Massachusetts (“EPA Region I Record Center”), EPA, with the concurrence of MassDEP, as evidenced by a letter of concurrence, from \_\_\_\_\_ to \_\_\_\_\_, dated \_\_\_\_\_, has selected one or more response actions (collectively, the “Selected Remedy”) for the Superfund Site in accordance with CERCLA and the NCP;

WHEREAS, the Selected Remedy is based, in part, upon the restriction of human access to and contact with hazardous substances, as that term is defined in CERCLA (“Hazardous Substances”), in soil, sediment, and/or groundwater and the restriction of certain uses and activities occurring in, on, through, over or under the Restricted Areas;

WHEREAS, in a document entitled “IC Design Statement,” dated \_\_\_\_\_ (the “IC Design Statement”), said IC Design Statement being attached hereto as Exhibit D, EPA approved a remedial design for land use restrictions and other institutional controls at the Superfund Site;

WHEREAS, the IC Design Statement contains a description of the basis for land use restrictions, and the release event(s) or site history that resulted in the contaminated media subject to this Notice, including (a) a statement that specifies why the Notice is necessary to the Selected Remedy; (b) a description of the release event(s) or site history that resulted in the contaminated media subject to the Notice (*i.e.*, date of the release(s), to the extent known, release volumes(s), and response actions taken to address the release(s)); (c) a description of the contaminated media (*i.e.*, media type(s) and approximate vertical and horizontal extent) subject to the Notice, (d) a statement of which activities and uses are consistent, and which are inconsistent, with maintaining the Selected Remedy, (e) a description of all other components of the institutional and land use controls at the Property;

WHEREAS, pursuant to 310 CMR 40.0111(1), MassDEP shall deem response actions at a disposal site subject to CERCLA adequately regulated for purposes of compliance with the MCP provided certain enumerated conditions are satisfied, including disposal sites subject to CERCLA with respect to which MassDEP has issued a letter of concurrence;

WHEREAS, pursuant to 310 CMR 40.0111, land use controls may be implemented at disposal sites deemed adequately regulated under CERCLA by means of a Notice of Activity and Use Limitation; and

WHEREAS, pursuant to 310 CMR 40.0111(10), disposal sites adequately regulated under CERCLA at which (a) remedial actions have been completed in accordance with the ROD for the site, (b) subsequent design, construction, and other pertinent plans have been approved by EPA, and (c) EPA has certified completion of the remedial action, will be considered to have achieved a Permanent Solution under M.G.L. c. 21E and the MCP for those hazardous substances subject to such remedial actions.

NOW, THEREFORE, notice is hereby given that the activity and use limitations required by the ROD and more particularly set forth in the IC Design Statement are as follows:

1. Activities and Uses Consistent with Maintaining the Selected Remedy. The following Activities and Uses are consistent with maintaining the Selected Remedy and, as such, may occur on the [*Property*][*Restricted Areas*] without compromising the Permanent Solution that has been achieved for the Site:

*[set forth, in non-technical, unambiguous language, all permitted activities and uses described in the IC Design Statement]:*

(i) ;

(ii) ; and

(iii) Such other activities and uses not identified in Paragraph 2 as being Activities and Uses Inconsistent with maintaining the Selected Remedy.

2. Activities and Uses Inconsistent with Maintaining the Selected Remedy. The following Activities and Uses are inconsistent with maintaining the Selected Remedy, and, as such, may not occur on the [*Property*][*Restricted Areas*] without compromising the Permanent Solution that has been achieved for the Site:

*[set forth, in non-technical language, all restricted activities and uses described in the IC Design Statement]:*

(i) ;

(ii) ; and



(iii) Any activity or use which would interfere with, or would be reasonably likely to interfere with, the implementation, effectiveness, integrity, operation, or maintenance of the Selected Remedy, including, but not limited to, [*cap(s), cover(s) or other ground covering features of response actions conducted to implement the Selected Remedy*]; [*systems to collect, contain, treat, and discharge groundwater*]; [*systems or containment areas to excavate, store, treat, and dispose of soils and sediments*]; and [*systems and studies to monitor implementation of the Selected Remedy, to provide long-term environmental monitoring of on-site groundwater, soils, and/or sediments, and to ensure that the remedial action is effective in the long-term and protective of human health and the environment*]. Reference is made to the Plan of Restricted Areas, which provides information about the location within the Property and engineering details, respectively, of certain of the foregoing components of the Selected Remedy. [*Include references to important site-specific components of the Selected Remedy, including where detailed information about them may be found*].

3. Obligations and Conditions. The following obligations and/or conditions are necessary and shall be undertaken at the Property to maintain the Selected Remedy and to avoid compromising the Permanent Solution that has been achieved for the Site:

*[Set forth, in non-technical language, all obligations and conditions described in the IC Design Statement. These should be obligations that will apply to current and future landowners, rather than obligations that will remain with any other entity after the land is transferred.]*:

- (i) ;
- (ii) ; and
- (iii)

4. Emergency Excavation. If it becomes necessary to excavate within the Restricted Areas as part of a response to an emergency (for example, repairing utility lines or responding to a fire or flood), the provisions of Paragraph 1 of this Notice shall be suspended with respect to such excavation to the extent necessary to permit such response, provided that the Owner:

- (i) orally notifies the following persons of such emergency as soon as possible but no later than two (2) hours after having learned of such emergency:
  - A. EPA National Response Center at (800) 424-8802 and EPA Region 1, Office of Site Remediation and Restoration, Emergency Planning and Response Branch [*insert contact information*]; and

B. MassDEP Emergency Response at (888) 304-1133 and MassDEP \_\_\_\_\_ Regional Office of Emergency Response Section;

or such other persons as MassDEP and EPA, respectively, may identify in writing, from time to time, to Owner for such oral emergency response notifications;

(ii) notifies MassDEP and EPA in writing of such emergency no later than five (5) days after having learned of such emergency, such notifications to be sent to the following addresses:

A. \_\_\_\_\_; and

B. \_\_\_\_\_;

or to such addresses as MassDEP and EPA, respectively, may identify in writing, from time to time, to Owner for such written emergency response notifications;

(iii) limits the actual disturbance involved in such excavation to the minimum reasonably necessary to adequately respond to the emergency;

(iv) implements all measures necessary to limit actual or potential risk to the public health and environment;

(v) engages a qualified hazardous waste site cleanup professional, such as a “Licensed Site Professional” (“LSP”) as defined in the MCP at 310 CMR 40.0006(12), to oversee the implementation of this Paragraph, and to prepare and oversee the implementation of a written plan (“Emergency Restoration Plan”) that will restore the Property to a condition that meets or exceeds the performance standards established under the ROD for the Selected Remedy and that is consistent with this Notice, and to review and evaluate response actions contained in the Emergency Restoration Plan to ensure minimal disturbance of any contaminated soils and sediments; and

(vi) performs all actions laid out in the Emergency Restoration Plan within thirty (30) days of the occurrence of the emergency or within such other time period as may be approved by MassDEP and EPA in writing, and submit a copy of the Emergency Restoration Plan to MassDEP and EPA within ten (10) days of its performance, with a statement from the cleanup professional confirming that the Property has been restored to the standard described above.

5. Proposed Changes in Activities and Uses; Amendments. Pursuant to 310 CMR 40.0111(8)(c), the Owner must notify and obtain approval from EPA and MassDEP of any proposed change in activities and uses at the Property that is not provided for in this Notice. Pursuant to 310 CMR 40.0111(8)(d), the Owner must obtain EPA and MassDEP approval of any Amendment or Termination of this Notice. All EPA and MassDEP approvals of any Amendment or Termination of this Notice must be in writing and be recorded and/or registered with the appropriate Registry(ies) of Deeds and/or Land Registration Office(s) to be effective.

6. Violations. The activities, uses and/or exposures upon which this Notice is based must not change at any time to (a) cause risks that are not protective of human health or the environment, pursuant to the criteria set forth in the NCP at 40 CFR 300.430(e)(2)(i), (b) interfere with the Selected Remedy, or (c) cause a significant risk of harm to health, safety, public welfare, or the environment pursuant to Chapter 21E and the MCP.

Compliance with the terms and conditions of this Notice is subject to enforcement pursuant to Chapter 21E, the MCP, M.G.L. c. 21A, § 16 and 310 CMR 5.00 and CERCLA and the NCP. Such enforcement may include, without limitation, enforcement with respect to (a) any activities or uses that may occur that are described in Paragraph 2 of this Notice as being inconsistent with the Selected Remedy, (b) any failure to undertake any obligations and conditions described in Paragraph 3 of this Notice as being necessary to maintain the Selected Remedy, and (c) any other failure to maintain the Selected Remedy or Permanent Solution resulting from a failure to act consistently with this Notice.

7. Incorporation Into Deeds, Mortgages, Leases, and Instruments of Transfer. This Notice shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the Property or a portion thereof is conveyed in accordance with 310 CMR 40.1074(5).

8. Reservation of Rights

This instrument shall not limit or otherwise affect the right of EPA and/or MassDEP to obtain access to, or restrict the use of, the Property pursuant to CERCLA, Chapter 21E, or any other applicable statute or regulation.

This instrument shall not release the Owner or any other party from liability for releases of oil or hazardous substances or materials, nor shall this instrument excuse the Owner or any other party from complying with CERCLA, Chapter 21E, or any other applicable federal, state or local laws, regulations, or ordinances or by-laws.

Owner hereby authorizes and consents to the filing and recordation and/or registration of this [*Confirmatory*] Notice, said [*Confirmatory*] Notice to become effective when recorded and/or registered with the appropriate Registry(ies) of

Deeds and/or Land Registration Office(s).

*[This Confirmatory Notice of Activity and Use Limitation is given to correct the inadvertent error(s) made in the Notice of Activity and Use Limitation dated \_\_\_\_\_, and recorded with the \_\_\_\_\_ Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_, said error(s) being as follows:*

*(i) \_\_\_\_\_ ;*

*(ii) \_\_\_\_\_ ; and*

*(iii) \_\_\_\_\_ .*

*In all other respects the terms of the Notice of Activity and Use Limitation remain unchanged.]*

WITNESS the execution hereof under seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of Owner]

[COMMONWEALTH OF MASSACHUSETTS]  
[STATE OF \_\_\_\_\_]

\_\_\_\_\_, ss \_\_\_\_\_,  
20\_\_

On this \_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_ (name of document signer), proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

- (as partner for \_\_\_\_\_, a partnership)
- (as \_\_\_\_\_ for \_\_\_\_\_, a corporation)
- (as attorney in fact for \_\_\_\_\_, the principal)
- (as \_\_\_\_\_ for \_\_\_\_\_, (a) (the) \_\_\_\_\_)

\_\_\_\_\_ (official signature and seal of notary)

In accordance with CERCLA, 42 U.S.C. § 9601, *et seq.*, and the National Contingency Plan, the United States Environmental Protection Agency, Region I, hereby approves this Notice of Activity and Use Limitation.

Date: \_\_\_\_\_

\_\_\_\_\_  
Director, Office of Site Remediation and Restoration  
U.S. Environmental Protection Agency, Region I

In accordance with M.G.L. c. 21E, § 6, and the Massachusetts Contingency Plan (310 CMR 40.0000), the Department of Environmental Protection hereby approves this Notice of Activity and Use Limitation (as to form only).

Date: \_\_\_\_\_

\_\_\_\_\_  
[Title]  
Department of Environmental Protection

List of Exhibits:

Exhibit A: Legal Description of the Property

Exhibit B: Legal Description of the Restricted Areas

Exhibit C: Photo-Reduced Copy of Plan of Restricted Areas

Exhibit D: IC Design Statement

Return to:

*[The Registry of Deeds returns original documents after recording. Accordingly, insert a return address for the return of the document after recording.]*



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**New England Region**  
**Five Post Office Square -- Suite 100**  
**Boston, Massachusetts 02109-3912**

*Final Model IC Design Statement: October 31, 2014*  
*An Attachment to the Model Federal NAUL*

INSTITUTIONAL CONTROL DESIGN STATEMENT

1. Introduction

Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, *et seq.*, (“CERCLA”) and the National Contingency Plan, 40 CFR Part 300 (the “NCP”), this document contains a description of the basis for land use restrictions, the release event(s) or site history that resulted in the contaminated media that require institutional controls in the form of Activity and Use Limitations, and uses that are consistent and inconsistent with Selected Remedy (as described below).

Notice(s) of Activity and Use Limitation is/are necessary and appropriate at [INSERT SITE NAME] located in [CITY/TOWN], Massachusetts (the “Site”), a site listed on EPA’s National Priorities List (“NPL”), based on the fact that [CHOOSE ALL THAT APPLY:] contaminants remain in place at levels higher than those appropriate for unlimited use or unrestricted exposure; groundwater underlying the Site contains hazardous substances at levels that present an unacceptable risk of exposure; and certain remedial measures constructed at the Site must be protected and maintained to ensure that the Selected Remedy remains protective. [ADD ADDITIONAL REASONS FOR THE NOTICE IF APPROPRIATE.]

EPA’s Record of Decision dated [INSERT DATE] specified the need for Institutional Controls to ensure long-term performance and protectiveness of the Selected Remedy. [*Include a reference to an Amended ROD(s) or an ESD(s) if relevant to the Institutional Controls.*] Accordingly, the Institutional Controls described herein are necessary and appropriate to ensure that the Selected Remedy for the Site remains protective of human health and the environment. The remedy for the Site as described in the ROD and in any ROD Amendments or Explanation of Significant Differences is referred to herein and in the Notice as the “Selected Remedy.”

2. Site History/Background

*[Insert a brief summary (from a Five Year Review or the Site’s NPLPAD) that includes the following:*



*(a) a description of the release event(s) or site history that resulted in the contaminated media subject to the Notice of Activity and Use Limitation (“NAUL”) (i.e., date of the release(s), to the extent known, release volumes(s), and response actions taken to address the release(s)); and*

*(b) a description of the contaminated media (i.e., media type(s) and approximate vertical and horizontal extent) subject to the NAUL.)]*

*[Include Site figure(s) showing the properties subject to restrictions.]*

*[Include references to Site documents, such as the ROD and the RI/FS, for more detailed information.]*

### 3. Summary of Required Institutional Controls

*[Insert information on each property (or groupings of properties if multiple properties are covered by same NAUL). The language on consistent/inconsistent uses should be the same language that will be inserted into the NAUL form, similar to prior GERE language on restricted/permitted uses.]*

- a. [PROPERTY 1]
  - i. Uses Consistent with the Selected Remedy
  - ii. Uses Inconsistent with the Selected Remedy
  - iii. Obligations and Conditions Necessary to Maintain the Selected Remedy
  - iv. All Other Institutional and Land Use Controls
  
- b. [PROPERTY 2]
  - i. Uses Consistent with the Selected Remedy
  - ii. Uses Inconsistent with the Selected Remedy
  - iii. Obligations and Conditions Necessary to Maintain the Selected Remedy
  - iv. All Other Institutional and Land Use Controls

### 4. Implementation of Notices

For the reasons described above and in relevant EPA decision documents, Notice(s) of Activity and Use Limitation should be implemented and recorded at the Site pursuant to CERCLA, the NCP, and regulations set forth in the Massachusetts Contingency Plan at 310 Code of Massachusetts Regulations Sections 40.0111(8), 40.1070(4), and (as applicable) 40.1074.

Date: \_\_\_\_\_

\_\_\_\_\_  
Director, Office of Site Remediation and Restoration  
Environmental Protection Agency, Region I