

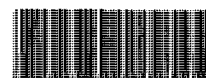
US EPA ARCHIVE DOCUMENT

SITE: Centredale

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 1 - NEW ENGLAND



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275694

IN THE MATTER OF:

Centredale Manor Restoration Project
Superfund Site

North Providence, Rhode Island

Emhart Industries, Inc.,

Respondent

ADMINISTRATIVE SETTLEMENT
AGREEMENT AND ORDER ON
CONSENT

U.S. EPA Region I
CERCLA Docket No. 01-2007-0163

Proceeding Under Sections 104(a), 104(b),
122(a) & 122(d)(3) of the Comprehensive
Environmental Response, Compensation,
and Liability Act, as amended, 42 U.S.C. §§
9604(a), 9604(b), 9622(a) & 9622(d)(3)

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I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent ("Settlement Agreement") is entered into by the United States Environmental Protection Agency ("EPA") and Emhart Industries, Inc. ("Respondent"). This Settlement Agreement provides for the performance of certain studies and investigations by Respondent in connection with the Centredale Manor Restoration Project Superfund Site ("Site"), which is comprised of 2072 and 2074 Smith Street in North Providence, Rhode Island (Plat 14, Lots 200 and 250, encompassing approximately 9.7 acres) as well as surface water, sediment and floodplain areas of the Woonasquatucket River from Route 44 southerly to the Allendale Dam and further below to the Lyman Mill Dam, including all contaminated areas within this area as well as any other locations to which contamination from this area has come to be located.

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104(a), 104(b), 122(a) and 122(d)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9604(a), 9604(b), 9622(a) and 9622(d)(3), as amended ("CERCLA"). These authorities were delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (Jan. 29, 1987), and further delegated to Regional Administrators on May 11, 1994, by EPA Delegation No. 14-14-C. These authorities were further redelegated by the Regional Administrator of EPA Region 1 to the Director of the Office of Site Remediation and Restoration on September 3, 1996.

3. EPA has notified the State of Rhode Island of this action pursuant to Section 104(b)(2) of CERCLA, 42 U.S.C. § 9604(b)(2).

4. EPA has notified the Federal Natural Resource Trustees of this action pursuant to Section 104(b)(2) of CERCLA, 42 U.S.C. § 9604(b)(2).

5. EPA and Respondent recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Respondent in accordance with this Settlement Agreement do not constitute an admission of any liability. Respondent does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the findings of fact, conclusions of law, determinations or statements in this Settlement Agreement or submissions made pursuant thereto. Respondent agrees to comply with and be bound by the terms of this Settlement Agreement and further agrees that it will not contest the validity of this Settlement Agreement or its terms.

II. PARTIES BOUND

6. This Settlement Agreement applies to and is binding upon EPA and upon Respondent and its heirs, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Settlement Agreement.

7. Respondent is jointly and severally liable for carrying out all activities required by this Settlement Agreement.

8. Respondent shall ensure that its contractors, subcontractors, and representatives receive a copy of this Settlement Agreement and comply with this Settlement Agreement. Respondent shall be responsible for any noncompliance by itself or by the aforesaid individuals or entities with this Settlement Agreement.

III. STATEMENT OF PURPOSE

9. In entering into this Settlement Agreement, the objectives of EPA and Respondent are the performance of the studies and investigations identified in the Statement of Work attached to this Settlement Agreement as Appendix A.

IV. DEFINITIONS

10. Unless otherwise expressly provided herein, terms used in this Settlement Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or in the appendix attached hereto and incorporated hereunder, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

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

c. "Effective Date" shall be the effective date of this Settlement Agreement as provided in Section XXVII.

d. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

e. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

f. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

g. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral.

- h. “Parties” shall mean EPA and Respondent.
- i. “RCRA” shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.* (also known as the Resource Conservation and Recovery Act).
- j. “Respondent” shall mean Emhart Industries, Inc.
- k. “RIDEM” shall mean the Rhode Island Department of Environmental Management and any successor departments or agencies of the State.
- l. “Section” shall mean a portion of this Settlement Agreement identified by a Roman numeral.
- m. “Settlement Agreement” shall mean this Administrative Settlement Agreement and Order on Consent and any appendices attached hereto. In the event of conflict between this Settlement Agreement and any appendix, this Settlement Agreement shall control.
- n. “Site” shall mean the Centredale Manor Restoration Project Superfund Site, which is comprised of 2072 and 2074 Smith Street in North Providence, Rhode Island (Plat 14, Lots 200 and 250, encompassing approximately 9.7 acres) as well as surface water, sediment and floodplain areas of the Woonasquatucket River from Route 44 southerly to the Allendale Dam and further below to the Lyman Mill Dam, including all contaminated areas within this area as well as any other locations to which contamination from this area has come to be located.
- o. “State” shall mean the State of Rhode Island.
- p. “Statement of Work” or “SOW” shall mean the statement of work set forth in Appendix A to this Settlement Agreement, and any modifications made thereto in accordance with this Settlement Agreement.
- q. “Waste Material” shall mean 1) any “hazardous substance” under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); 2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); and 3) any “solid waste” under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).
- r. “Work” shall mean all activities Respondent is required to perform under this Settlement Agreement.

V. EPA’S FINDINGS OF FACT

Background

11. The Centredale Manor Restoration Project Superfund Site is located in North Providence, Rhode Island. It consists of two parcels, 2072 and 2074 Smith Street (Plat 14, Lots 200 and 250, encompassing approximately 9.7 acres), as well as surface water, sediment and floodplain areas of the Woonasquatucket River from Route 44 southerly to the Allendale Dam

and further below to the Lyman Mill Dam, including all contaminated areas within this area as well as any other locations to which contamination from this area has come to be located.

12. Prior to 1936, the properties were occupied by Centredale Worsted Mills, a woolens manufacturing plant. Atlantic Chemical Company, a chemical manufacturer, began operating on a portion of the Site in approximately 1940. Atlantic Chemical Company changed its name in 1953 to Metro-Atlantic, Inc., and operated until the late 1960s or early 1970s. In the late 1960s or early 1970s, Metro-Atlantic, Inc., changed its name to Crown-Metro, Inc. The chemical company ceased operating at the Site in the early 1970s. New England Container Company operated a drum reconditioning facility on a portion of the Site from 1952 until the early 1970s. A major fire in the early 1970s destroyed most of the structures at the Site. In 1976, Brook Village Associates Limited Partnership purchased 2072 Smith Street, where the chemical company previously operated, and completed construction of an apartment building that provides affordable housing to the elderly. Centerdale Manor Associates purchased 2074 Smith Street in 1983 and built a similar building. Evidence suggests that the operations of the chemical companies and the drum reconditioning facility at the Site resulted in releases and threats of releases of hazardous substances at the Site.

13. Respondent is a successor to certain assets and liabilities of the chemical companies which operated at the Site.

14. Acting on a verbal approval of funding, EPA initiated a removal action (including sampling and placement of temporary fencing around contaminated surface soil) in January 1999. An Action Memorandum documenting this verbal approval, and authorizing additional activities, was issued on May 4, 1999.

15. On September 13, 1999, an Action Memorandum was issued which changed the scope of the ongoing removal activities to include designing and implementing a Flood Evaluation Study of the Site and surrounding area; designing and implementing interim soil caps for specific areas of the Site; and reconstruction of the former tailrace at the eastern edge of the Site.

16. In 1999, EPA began conducting Remediation Investigation ("RI") activities at the Site.

17. On September 15, 1999, EPA mailed Notice of Potential Liability letters to three potentially responsible parties ("PRPs"): Brook Village Associates Limited Partnership; Centerdale Manor Associates Limited Partnership; and New England Container Company, Inc. On December 2, 1999, EPA issued a proposed Administrative Order on Consent ("AOC") for time-critical removal activities to Brook Village Associates Limited Partnership and Centerdale Manor Associates Limited Partnership. These negotiations were unsuccessful.

18. On February 3, 2000, EPA issued a letter to the three PRPs requesting that they voluntarily perform or finance an Engineering Evaluation/Cost Analysis ("EE/CA") for a portion of the Site. The parties declined to negotiate. The EE/CA was completed in September 2000.

19. On February 28, 2000, EPA mailed two additional Notice of Potential Liability letters to Respondent and Crown- Metro, Inc. Negotiations with these two PRPs, as well as the three PRPs previously named, to perform or fund the remaining time-critical removal activities at the Site were not successful.

20. The Site was placed on the National Priorities List ("NPL") on March 6, 2000.

21. On April 12, 2000, EPA issued a Unilateral Administrative Order ("UAO") to Respondent and four other PRPs at the Site, ordering the parties to complete time-critical removal activities at the Site including completion of the second interim soil cap and implementation of certain flood control measures. All five PRPs complied with the UAO. EPA approved the PRPs' Completion of Work Report on September 11, 2000.

22. On April 27, 2000, EPA issued a letter to Respondent and the four other PRPs requesting that they indicate their interest in completing the RI/FS at the Site, and reimbursing EPA for its past costs at the Site. These negotiations were unsuccessful and EPA continued to work on the RI/FS.

23. On June 1, 2000, a second Action Memorandum was issued transitioning certain time-critical removal activities to non-time critical removal activities and noting that the second interim soil cap and certain flood control measures would be performed by PRPs at the Site pursuant to a UAO.

24. On January 18, 2001, EPA issued an Action Memorandum to remove contaminated soils and sediments from properties subject to residential and recreation use and to restore the Allendale Dam to minimize further migration of contaminated sediment in the River. On March 26, 2001, EPA issued a Second UAO to Respondent and the four other PRPs at the Site, ordering the parties to implement the Work in the Action Memorandum. The Allendale Dam restoration was completed in February, 2002. EPA approved the PRPs' Completion of Work Report on May 13, 2005.

25. On March 3, 2003, EPA mailed Notice of Potential Liability letters to eleven PRPs: American Hoechst Corporation, American Mineral Spirits Company, Ciba Geigy, Cranston Print Works Company, Eastern Color and Chemical Company, Eastern Smelting, Organic Dyestuffs Corporation, The Original Bradford Soap Works, Inc., Warwick Chemical Company, T.H. Baylis, Co., and Teknor Apex Company. EPA mailed an additional Notice of Potential Liability letter to Refinity Corporation on March 31, 2003.

26. By letter dated May 5, 2003, EPA requested that all the PRPs participate in the Third Administrative Order on Consent for a Removal Action ("Third AOC") to complete time critical removal activities in the tailrace portion of the Site. Ten PRPs, including Respondent, signed the Third AOC which became effective on September 16, 2003. Pursuant to the Third AOC, Respondent and three other PRPs constructed a cap over contaminated soil and sediment, and installed storm drainage equipment intended to separate soil, sediment, debris and other materials at the outfall of a storm drain line. Six other PRPs contributed to the costs of the work. EPA issued a Notice of Completion for this work on June 27, 2006.

27. In October 2003, EPA issued a UAO to two PRPs that declined to sign the Third AOC. That UAO ordered both parties to participate and cooperate with the respondents to the Third AOC. Subsequently, both PRPs contributed to the costs of the removal action.

28. In May 2004, EPA issued two additional general notice letters to Eli Lilly Company and ConocoPhillips Company.

29. In 2006, Respondent agreed to place fill around the storm drainage equipment installed pursuant to the Third AOC; armor the slopes; replace the manhole covers; and replace the screen in the concrete pipe outfall. This work was completed by Respondent in the Fall of 2006.

30. In 2006, Respondent agreed to perform certain studies and investigations to assist EPA in its analysis of the conditions that would potentially result from the removal of the Allendale and Lyman Mill Dams, as more fully described in the Statement of Work attached to this Settlement Agreement as Exhibit A.

31. In 2007, EPA issued additional notice letters to Northeast Products Company, Inc., the United States Department of the Navy and the United States Department of the Air Force.

32. Analysis of soils, sediments, wetlands and flood plain samples at the Site reveal elevated levels of hazardous substances, pollutants or contaminants, including 2,3,7,8-Tetrachlorodibenzo-p-Dioxin ("dioxin"), polychlorinated biphenyls ("PCBs" or "Aroclors"), polycyclic aromatic hydrocarbons ("PAHs"), including benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenzo(a,h)anthracene, and indeno(1,2,3-cd)pyrene, metals (including antimony, arsenic, chromium, lead, and manganese), and several Volatile Organic Compounds ("VOCs") and Semi-Volatile Organic Compounds ("SVOCs").

VI. EPA'S CONCLUSIONS OF LAW AND DETERMINATIONS

33. Based on the Findings of Fact set forth above, EPA has determined that:

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

b. The contamination found at the Site, as identified in the Findings of Fact above, includes "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

c. Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

d. Respondent is a responsible party under Sections 104, 107(a) and 122 of CERCLA, 42 U.S.C. §§ 9604, 9607(a) and 9622.

e. The conditions described in Paragraph 32 of the Findings of Fact above constitute an actual or threatened “release” of a hazardous substance from the facility as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

f. It is necessary and appropriate to conduct the studies and investigations which are required by this Settlement Agreement in order to plan and direct response actions in accordance with CERCLA and the NCP.

VII. SETTLEMENT AGREEMENT AND ORDER

WHEREAS, based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, and without admission of any factual or legal allegations and denial by Respondent of any liability or violation of law, it is hereby ORDERED and AGREED that Respondent shall comply with all provisions of this Settlement Agreement, including, but not limited to, all appendices to this Settlement Agreement.

VIII. DESIGNATION OF CONTRACTOR AND PROJECT COORDINATORS

34. Respondent shall retain one or more contractor(s) to perform the Work and shall notify EPA of the name and qualifications of such contractor within seven (7) days of the Effective Date. Respondent shall also notify EPA of the name and qualifications of any other contractor or subcontractor retained to perform the Work at least seven (7) days prior to commencement of such Work. EPA retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Respondent. If EPA disapproves of a selected contractor, Respondent shall retain a different contractor and shall notify EPA of that contractor's name and qualifications within five (5) days of retaining an alternative contractor.

35. Within seven (7) days after the Effective Date, Respondent shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondent required by this Settlement Agreement and shall submit to EPA the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondent shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within five (5) days of retaining an alternative designated Project Coordinator. Receipt by Respondent's Project Coordinator of any notice or communication from EPA relating to this Settlement Agreement shall constitute receipt by Respondent.

36. EPA has designated Anna Krasko of the Office of Site Remediation and Restoration, Region I, as its Project Coordinator. Except as otherwise provided in this Settlement Agreement, Respondent shall direct all submissions required by this Settlement Agreement to the Project Coordinator at the U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Mail Code HBO, Boston, Massachusetts 02114-2023.

37. EPA's Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager ("RPM") and On-Scene Coordinator ("OSC") by the NCP. In addition, EPA's Project Coordinator shall have the authority consistent with the NCP, to halt any Work required by this Settlement Agreement, and to take any necessary response action when s/he determines that conditions at the Site may present an immediate endangerment to public health or welfare or the environment. The absence of the EPA Project Coordinator from the area under study pursuant to this Settlement Agreement shall not be cause for the stoppage or delay of Work.

38. EPA and Respondent shall have the right, subject to Paragraph 35, to change their respective designated Project Coordinators. Respondent shall notify EPA five (5) days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notice.

IX. WORK TO BE PERFORMED

39. Respondent shall perform the tasks identified in the Statement of Work, which is attached to this Settlement Agreement as Appendix A. The Statement of Work includes certain studies and investigations to assist EPA with its analysis of the conditions that would potentially result from the removal of the Allendale and Lyman Mill Dams.

40. Respondent shall conduct the Work in accordance with the provisions of this Settlement Agreement, the Statement of Work, CERCLA, the NCP and EPA guidance, as may be amended or modified by EPA.

41. Reporting.

a. Respondent shall submit a written progress report to EPA concerning actions undertaken pursuant to this Settlement Agreement every thirtieth (30th) day after the Effective Date until completion of the Statement of Work under this Settlement Agreement, unless otherwise directed in writing by the EPA Project Coordinator. These reports shall (1) describe the actions which have been taken to comply with this Settlement Agreement during the relevant time period; (2) include all results of sampling, tests, modeling or other data (including raw data) generated by Respondent or on Respondent's behalf; and (3) include a schedule of actions to be performed. Respondent shall comply with any additional reporting requirements set forth in the Statement of Work attached to this Settlement Agreement as Appendix A.

b. Respondent shall submit four (4) copies of all plans, reports or other submissions required by this Settlement Agreement, the Statement of Work, or any approved work plan. Upon request by EPA, Respondent shall submit such documents in electronic form.

42. Final Report.

Within forty five (45) days after completion of all Work required by this Settlement Agreement, Respondent shall submit for EPA review and approval a final report summarizing the actions taken to comply with this Settlement Agreement. The final report shall include (1) a good faith estimate of total costs or a statement of actual costs incurred in complying with the Settlement Agreement; (2) copies of all tables, evaluations, reports, assessments and other

documents prepared in performance of the Work; (3) a listing of quantities and types of materials removed off-Site or handled on-Site, if any, a discussion of removal and disposal options considered for those materials, and a listing of the ultimate destination(s) of those materials; (4) a presentation of the analytical results of all sampling and analyses performed; and (5) copies of all other relevant documentation generated during the Work (e.g., manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

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

43. Off-Site Shipments.

a. Respondent shall, prior to any off-Site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to the EPA Project Coordinator. However, this notification requirement shall not apply to any off-Site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

1. Respondent shall include in the written notification the following information: 1) the name and location of the facility to which the Waste Material is to be shipped; 2) the type and quantity of the Waste Material to be shipped; 3) the expected schedule for the shipment of the Waste Material; and 4) the method of transportation. Respondent shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

2. The identity of the receiving facility and state will be determined by Respondent following the award of the contract for any work that will include off-Site shipments. Respondent shall provide the information required by Paragraphs 43(a) and (b) as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

b. Before shipping any hazardous substances from the Site to an off-site location, Respondent shall obtain EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondent shall only send hazardous substances from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

X. SITE ACCESS

44. If the Site, or any other property where access is needed to implement this Settlement Agreement, is owned or controlled by Respondent, Respondent shall, commencing on the Effective Date, provide EPA, the State, and their representatives, including contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Settlement Agreement.

45. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than Respondent, Respondent shall use its reasonable efforts to obtain all necessary access agreements within fourteen (14) days after the Effective Date, or at a later date as specified in writing by the EPA Project Coordinator. Respondent shall immediately notify EPA if after using its reasonable efforts it is unable to obtain such agreements. Respondent shall describe in writing its efforts to obtain access. EPA may then assist Respondent in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as EPA deems appropriate. EPA reserves the right to bring an action to recover any costs and attorney's fees incurred in obtaining such access, in accordance with Section XIX (Reservation of Rights By EPA).

46. Notwithstanding any provision of this Settlement Agreement, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XI. ACCESS TO INFORMATION

47. Respondent shall provide to EPA, upon request, copies of all documents and information within its possession or control or that of its contractors or agents relating to the implementation of this Settlement Agreement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondent shall also make available to EPA, for purposes of investigation, information gathering, or testimony, its employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

48. Respondent may assert business confidentiality claims covering part or all of the documents or information submitted to EPA under this Settlement Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when they are submitted to EPA, or if EPA has notified Respondent that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondent.

49. Respondent may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If

Respondent asserts such a privilege in lieu of providing documents, it shall provide EPA with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the contents of the document, record, or information; and 6) the privilege asserted by Respondent. However, no final documents, reports or other information submitted pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

50. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

XII. RECORD RETENTION

51. Until 10 years after Respondent's receipt of EPA's notification pursuant to Section XXV (Notice of Completion), Respondent shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Until 10 years after Respondent's receipt of EPA's notification pursuant to Section XXV (Notice of Completion), Respondent shall also instruct its contractors and agents to preserve all documents, records, and information of whatever kind, nature or description relating to performance of the Work.

52. Prior to the conclusion of this document retention period, and upon request by EPA, Respondent shall deliver any such records or documents to EPA. Respondent may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondent asserts such a privilege, it shall provide EPA with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege asserted by Respondent. However, no final documents, reports or other information submitted pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

53. Respondent hereby certifies individually that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by EPA or the State and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XIII. COMPLIANCE WITH OTHER LAWS

54. Respondent shall perform all actions required pursuant to this Settlement Agreement in accordance with all applicable local, state, and federal laws and regulations except as provided in Section 121(e) of CERCLA, 42 U.S.C. § 6921(e), and 40 C.F.R. §§ 300.400(e) and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-Site actions required pursuant to this Settlement Agreement shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements (“ARARs”) under federal environmental or state environmental or facility siting laws.

XIV. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

55. In the event of any action or occurrence during performance of the Work which causes or threatens a release of a hazardous substance from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondent shall immediately take all appropriate action. Respondent shall take these actions in accordance with all applicable provisions of this Settlement Agreement in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondent shall also immediately notify the EPA Project Coordinator or, in the event of her unavailability, the Regional Duty Officer, Emergency Planning and Response Branch, EPA Region I, at (617) 723-8928, and the National Response Center at (800) 424-8802 of the incident or Site conditions. In the event that Respondent fails to take appropriate response action as required by this Paragraph, and EPA takes such action instead, EPA reserves the right to bring an action to recover such costs, in accordance with Section XIX (Reservation of Rights By EPA).

56. Respondent shall submit a written report to EPA within 7 days after any such release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

XV. DISPUTE RESOLUTION

57. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Settlement Agreement. EPA and Respondent shall attempt to resolve any disagreements concerning this Settlement Agreement expeditiously and informally.

58. If Respondent objects to any EPA action taken pursuant to this Settlement Agreement, it shall notify EPA in writing of its objections within seven (7) days of such action, unless the objection has been resolved informally. EPA and Respondent shall have fourteen (14) days from EPA’s receipt of Respondent’s written objection to resolve the dispute through formal negotiations (the “Negotiation Period”). The Negotiation Period may be extended upon agreement by EPA and Respondent.

59. Any agreement reached by EPA and Respondent pursuant to this Section shall be in writing and shall, upon signature by both EPA and Respondent, be incorporated into and become an enforceable part of this Settlement Agreement. If EPA and Respondent are unable to reach an agreement within the Negotiation Period, Respondent or EPA may, by providing notice in writing, request the employment of a neutral mediator to be selected in accordance with EPA guidance on the use of Alternative Dispute Resolution. Respondent and EPA shall, in the first instance, consider employing EPA's in house mediator. Such mediation shall be non-binding and shall not last longer than 30 days from the date of selection of the mediator unless extended by written agreement of EPA and Respondent. If neither party requests mediation, or the dispute is not resolved at the end of the mediation period, an EPA management official at the branch chief level or higher will issue a written decision on the dispute to Respondent. If Respondent and EPA agree to change any EPA action or no agreement is reached and EPA issues its final position on the dispute, Respondent shall begin to implement the activities required by the EPA decision no later than 15 days after agreement is reached or after receipt of EPA's final position.

XVI. FORCE MAJEURE

60. Respondent agrees to perform all requirements of this Settlement Agreement within the time limits established under this Settlement Agreement, unless the performance is delayed by a *force majeure*. For purposes of this Settlement Agreement, a *force majeure* is defined as any event arising from causes beyond the control of Respondent, or of any entity controlled by Respondent, including but not limited to their contractors and subcontractors, that delays or prevents performance of any obligation under this Settlement Agreement despite Respondent's best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work or increased cost of performance.

61. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Respondent shall notify EPA orally within seven (7) days of when Respondent first knew that the event would cause a delay. Within seven (7) days thereafter, Respondent shall provide to EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondent's rationale for attributing such delay to a *force majeure* event if it intends to assert such a claim; and a statement as to whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health, welfare or the environment.

62. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Settlement Agreement that are affected by the *force majeure* event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligations that are not affected by the *force majeure* event. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify Respondent in writing of its decision. Upon receipt of the notice from EPA, Respondent shall have an opportunity to pursue Dispute Resolution according to Section XV of this Settlement

Agreement. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Respondent in writing of the length of the extension for performance of the obligations affected by the *force majeure* event.

XVII. STIPULATED PENALTIES

63. Respondent shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 63 and 64 for failure to comply with the requirements of this Settlement Agreement specified below, unless excused under Section XVI (*Force Majeure*). "Compliance" by Respondent shall include completion of the activities under this Settlement Agreement or any work plan or other plan approved under this Settlement Agreement in accordance with all applicable requirements of law, this Settlement Agreement, the Statement of Work, and any plans or other documents approved by EPA pursuant to this Settlement Agreement and within the specified time schedules established by and approved under this Settlement Agreement.

64. Stipulated Penalty Amounts - Work.

a. The following stipulated penalties shall accrue per violation per day for any noncompliance with the milestones identified in Paragraph 64(b):

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$100	1st through 4 th day
\$250	5th through 30th day
\$500	31st day and beyond

b. Compliance Milestones: Any deadlines for Commencing Work, and Completing Work, as specified in the Statement of Work attached to this Settlement Agreement as Appendix A.

65. Stipulated Penalty Amounts - Reports.

The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate reports or other written documents pursuant to any requirements set forth in the Statement of Work attached to this Settlement Agreement as Appendix A:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$100	1st through 4th day
\$250	5th through 30th day
\$500	31st day and beyond

66. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: 1) with respect to a deficient submission under Section IX (Work to be Performed), during the period, if any, beginning on the 31st day after EPA's receipt of such

submission until the date that EPA notifies Respondent of any deficiency; and 2) with respect to an agreement reached or a final position issued pursuant to Section XV (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that an agreement is reached or a final position is issued regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

67. Upon EPA's determination that Respondent has failed to comply with a requirement of this Settlement Agreement, EPA shall give Respondent written notification of the failure and describe the noncompliance without unreasonable delay. EPA may send Respondent a written demand for payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondent of a violation.

68. All penalties accruing under this Section shall be due and payable to EPA within 30 days of Respondent's receipt from EPA of a demand for payment of the penalties, unless Respondent invokes the dispute resolution procedures under Section XV (Dispute Resolution). All payments to EPA under this Section shall be paid by certified or cashier's check(s) made payable to "EPA Hazardous Substances Superfund," shall be mailed to EPA Region I, Attn: Superfund Accounting, P.O. Box 360197 M, Pittsburgh, PA 15251, shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID Number 016P, the EPA Docket Number, and the name and address of the party making payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letters, shall be sent to EPA as provided in Paragraph 36, and to Eve Vaudo, EPA Senior Enforcement Counsel, U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Mail Code SES, Boston, Massachusetts 02114-2023.

69. The payment of penalties shall not alter in any way Respondent's obligation to complete performance of the Work required under this Settlement Agreement.

70. Penalties shall continue to accrue during any dispute resolution period, pursuant to Paragraph 66, but need not be paid until 15 days after the dispute is resolved by agreement or by receipt of EPA's final position.

71. If Respondent fails to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Respondent shall pay Interest on the, unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 67. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(l) of CERCLA, 42 U.S.C. § 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that EPA shall not seek civil penalties pursuant to Section 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided herein, except in the case of a willful violation of this Settlement Agreement. Notwithstanding any other provision of this Section,

EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

XVIII. COVENANT NOT TO SUE BY EPA

72. In consideration of the actions that will be performed by Respondent under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take administrative action against Respondent pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606 for the Work. This covenant not to sue shall take effect upon the Effective Date and is conditioned upon the complete performance by Respondent of all obligations under this Settlement Agreement. This covenant not to sue extends only to Respondent and does not extend to any other person.

XIX. RESERVATIONS OF RIGHTS BY EPA

73. Except as specifically provided in this Settlement Agreement, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law.

74. The covenant not to sue set forth in Section XVIII above does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Respondent with respect to all other matters, including, but not limited to:

- a. claims based on a failure by Respondent to meet a requirement of this Settlement Agreement;
- b. liability for costs incurred or to be incurred by EPA at the Site;
- c. liability for performance of response actions other than the Work;
- d. criminal liability;
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and
- g. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site.

75. Work Takeover.

In the event EPA determines that Respondent has ceased implementation of any portion of the Work, is seriously or repeatedly deficient or late in its performance of the Work, or is implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portions of the Work as EPA determines necessary. Respondent may invoke the procedures set forth in Section XV (Dispute Resolution) to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. EPA reserves the right to bring an action to recover any costs incurred by the United States in performing the Work pursuant to this Paragraph, in accordance with Section XIX (Reservation of Rights By EPA). Notwithstanding any other provision of this Settlement Agreement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

XX. COVENANT NOT TO SUE BY RESPONDENT

76. Respondent covenants not to sue and agrees not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, or this Settlement Agreement, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law; or

b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the State Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Work, except for the United States Department of the Navy and the United States Department of the Air Force.

77. These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 74 (b), (c), and (e) - (g), but only to the extent that Respondent's claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

78. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

XXI. OTHER CLAIMS

79. By issuance of this Settlement Agreement, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. The United States or EPA shall not be deemed a party to any contract entered into by Respondent or its directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Settlement Agreement.

80. Except as expressly provided in Section XVIII (Covenant Not to Sue by EPA), nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Respondent or any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

81. No action or decision by EPA pursuant to this Settlement Agreement shall give rise to any right to judicial review, except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXII. CONTRIBUTION

82. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that Respondent is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for “matters addressed” in this Settlement Agreement. The “matters addressed” in this Settlement Agreement is the Work.

83. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which Respondent has, as of the Effective Date, resolved its liability to the United States for the Work.

84. Nothing in this Settlement Agreement precludes the United States or Respondent from asserting any claims, causes of action, or demands for indemnification, contribution, or cost recovery against any persons not parties to this Settlement Agreement. Nothing herein diminishes the right of the United States, pursuant to Sections 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2) and (3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

XXIII. INDEMNIFICATION

85. Respondent shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, or

subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Respondent agrees to pay the United States all costs incurred by the United States, including, but not limited to, reasonable attorneys' fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, subcontractors and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondent in carrying out activities pursuant to this Settlement Agreement. Neither Respondent nor any contractor shall be considered an agent of the United States.

86. The United States shall give Respondent notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondent prior to settling such claim.

87. Respondent waives all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between Respondent and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays. In addition, Respondent shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondent and any person for performance of Work pursuant to this Settlement Agreement, including, but not limited to, claims on account of construction delays.

XXIV. MODIFICATIONS

88. The EPA Project Coordinator and Respondent may make mutually agreed upon modifications to any plan or schedule or Statement of Work in writing or by oral direction. Any mutually agreed upon oral modification will be memorialized in writing by EPA promptly, but shall have as its effective date the date of the EPA Project Coordinator's oral direction. Any other requirements of this Settlement Agreement may be modified in writing by mutual agreement of the parties.

89. If Respondent seeks permission to deviate from any approved work plan or schedule or Statement of Work, Respondent's Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis. Respondent may not proceed with the requested deviation until receiving oral or written approval from the EPA Project Coordinator pursuant to Paragraph 88.

90. No informal advice, guidance, suggestion, or comment by the EPA Project Coordinator or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Respondent shall relieve Respondent of its obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

XXV. NOTICE OF COMPLETION OF WORK

91. When EPA determines that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including record retention, EPA will provide written notice to Respondent. If EPA determines that any such Work has not been completed in accordance with this Settlement Agreement, EPA shall notify Respondent, provide a list of the deficiencies, and require that Respondent correct such deficiencies. Respondent may invoke the Dispute Resolution procedures in Section XV, within seven (7) days of receipt of such EPA notice. Respondent shall correct any deficiencies in accordance with the EPA notice. Failure by Respondent to correct any deficiencies shall be a violation of this Settlement Agreement.

XXVI. SEVERABILITY/INTEGRATION/APPENDICES

92. If a court issues an order that invalidates any provision of this Settlement Agreement or finds that Respondent has sufficient cause not to comply with one or more provisions of this Settlement Agreement, Respondent shall remain bound to comply with all provisions of this Settlement Agreement not invalidated or determined to be subject to a sufficient cause defense by the court's order.

93. This Settlement Agreement and its appendix constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. Appendix A (Statement of Work) is attached to and incorporated into this Settlement Agreement.

XXVII. EFFECTIVE DATE

94. This Settlement Agreement shall be effective one (1) day after the Settlement Agreement is signed by the Director, Office of Site Remediation and Restoration.

The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind Respondent to this document.

Agreed this 25th day of September, 2007.

For Respondent Emhart Industries, Inc.

By Jerome C. Mugg, Jr.

Title Counsel

It is so ORDERED and Agreed this ____ day of _____, 2007.

By _____

James T. Owens, III
Director, Office of Site Remediation and Restoration
Region I
U.S. Environmental Protection Agency

EFFECTIVE DATE .

The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind Respondent to this document.

Agreed this ____ day of _____, 2007.

For Respondent _____

By _____

Title _____

It is so ORDERED and Agreed this 25 day of September, 2007.

By 

for James T. Owens, III
Director, Office of Site Remediation and Restoration
Region I
U.S. Environmental Protection Agency

EFFECTIVE DATE: September 26, 2007

APPENDIX A

STATEMENT OF WORK

The following tasks will be performed by Emhart Industries, Inc. ("Respondent"):

1. Emhart will prepare tables that provide estimates of: (i) sediment removal volumes and quantities; (ii) construction cost details; and (iii) present worth costs for the alternatives that consider the removal of Allendale Dam and Lyman Mill Dam. Emhart will also perform an evaluation of alternatives that are carried forward from the qualitative screening. In addition, Emhart will perform a hydrodynamic evaluation of each alternative and an ecological impact assessment of each alternative.
2. Emhart will conduct a comparative ecological assessment of Allendale and Lyman Mill Ponds as they currently exist (baseline) and their condition should a dam removal option be implemented. The assessment will rely on the available data presented in EPA's Baseline Ecological Risk Assessment (BERA), in the Oxbow ecological assessment, and any additional evaluations or information obtained as part of the Remedial Investigation and Feasibility Study. In addition, Emhart will conduct a site walkover to assess the vegetation that exists along the River and in the Oxbow Area and to get a first hand knowledge of the site environs. The existing habitats will be contrasted with those that are anticipated if a dam removal alternative is selected. A report will be prepared which describes the habitats under each condition, identifies their similarities and contrasts their differences.
3. Emhart will perform a hydrodynamic analysis of the dam removal alternatives that are carried forward from the qualitative screening, which will include an evaluation of various channel designs, an investigation of the hydrodynamics and extent of inundation in the floodplain areas of Allendale and Lyman Mill Ponds, an analysis of the effects of dam removal on the hydrodynamics and floodplain inundation in the Manton Pond area, and an evaluation of the impacts of dam removal on stage height and floodplain inundation during high-flow events in the region from Manton Dam to the confluence of the Woonasquatucket River and Moshassuck River.