

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

STATE OF OHIO, ex rel.	:	CASE NO.: 2:06 cv 553
RICHARD CORDRAY	:	
OHIO ATTORNEY GENERAL	:	
	:	JUDGE MARBLEY
	:	
Plaintiff,	:	MAGISTRATE JUDGE KING
	:	
v.	:	
	:	
FRANKLIN STEEL COMPANY, et al.	:	
	:	
Defendants.	:	

**JOINT MOTION REQUESTING APPROVAL AND ENTRY OF PROPOSED
CONSENT ORDER FOR PRELIMINARY INJUNCTION**

On July 3, 2006, Plaintiff, State of Ohio, filed a Complaint pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9607, with supplemental State claims, against Defendants Franklin Steel Company and Sidney I. Blatt. The Estate of Sidney I. Blatt and Laura B. Paul, as Co-Executor of the Estate, were substituted as Defendants after the death of Mr. Blatt.

Since the filing of the Complaint, the State and Defendant Franklin Steel Company have reached agreement on the enclosed Consent Order for Preliminary Injunction (“COPI”), which was negotiated between the in State and Defendant Franklin

Steel Company in good faith. The COPI has been approved and signed by the State and Defendant Franklin Steel Company, and the terms of the COPI are fair, reasonable, and adequate. Thus, the State and Defendant Franklin Steel Company jointly request this Court to approve, sign, and enter this COPI.

**RICHARD CORDRAY
OHIO ATTORNEY GENERAL**

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Company, aka Franklin Steel Company,
Inc.*

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FRANKLIN STEEL COMPANY, et al.	:	
	:	
Defendants.	:	

CONSENT ORDER FOR PRELIMINARY INJUNCTION

Plaintiff, State of Ohio, by and through its Attorney General, Richard Cordray, at the written request of the Director of the Ohio Environmental Protection Agency ("Ohio EPA"), has filed the Complaint in this action against Defendants, Franklin Steel Company, aka Franklin Steel Company, Inc. ("Franklin Steel"), the Estate of Sidney I. Blatt and Laura B. Paul, as Co-Executor of the Estate, seeking reimbursement of Response Costs pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq. ("CERCLA") and enforcement of Ohio's hazardous waste and water pollution laws found in Chapters 3734 and 6111 of the Revised Code ("R.C.") and rules adopted thereunder. Defendant Franklin Steel, having consented to the entry of this Consent Order for Preliminary Injunction ("COPPI"); THEREFORE, without trial or admission of any issue of law or of fact, and upon the consent of the undersigned parties, it is hereby ORDERED, ADJUDGED and DECREED as follows.

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APPENDIX

- A. RFI/CMS Statement of Work

I. STATEMENT OF PURPOSE

1. In entering into this Consent Order for Preliminary Injunction (“COPI”), the mutual objectives of the State of Ohio and Defendant, Franklin Steel, include (1) completion of a Resource Conservation and Recovery Act (“RCRA”) Facility Investigation (“RFI”) and a Corrective Measures Study (“CMS”) to determine the nature and extent of any contamination at and migrating from the Franklin Steel Facility, as defined herein, and to evaluate remedial actions for addressing the contamination, including, if necessary, treatability studies, as required by Director’s Final Findings and Orders issued June 23, 1992 and this COPI; (2) a stay of litigation until the RFI/CMS is completed and approved by Ohio EPA, and Ohio EPA selects the remedy for the Site; (3) the payment of past Response Costs through December 31, 2008, except for Enforcement Response Costs, which are Response Costs incurred by the State litigating this case, incurred after December 31, 2007; and (4) negotiation of a final Consent Order after this COPI is terminated.

II. DEFINITIONS

2. As used in this Consent Order:

- A. “Corrective Measures Study” or “CMS” means the activities to be undertaken to develop and evaluate potential remedial alternatives for the cleanup of the Site. A “CMS” is part of the investigation and remediation process under the Corrective Action program provided for under §§ 3004(u), 3004(v), and 3008(h) of the Resource Conservation and Recovery Act of 1976 (“RCRA”), as amended.
- B. “CMS Statement of Work” or “CMS SOW” means the outline of work for

completion of the Corrective Measures Study.

- C. "CMS Work Plan" means the work plan and schedule for completion of the Corrective Measures Study.
- D. "Defendant" herein means Franklin Steel Company, aka Franklin Steel Company, Inc.
- E. "Director" means Ohio's Director of Environmental Protection.
- F. "Effective Date" means the date the clerk of the U.S. District Court for the Southern District of Ohio, Eastern Division, enters this COPL.
- G. "Facility" means the property owned located at 1385 Blatt Boulevard, Blacklick, Franklin County, Ohio and formerly owned by Defendant Franklin Steel.
- H. "Findings and Orders" means the Director's Final Findings and Orders, agreed to and signed by Franklin Steel and issued by the Director on June 23, 1992.
- I. "Franklin Steel" means the corporate entity with a mailing address of 4460 Lake Forest Drive, Suite 230, Cincinnati, Ohio 45242 identified as Franklin Steel Company in the Complaint and Franklin Steel Company, Inc. in the Findings and Orders.
- J. "National Contingency Plan" or "NCP" means the National Oil and Hazardous Substances Pollution Contingency Plan, referred to in the Comprehensive Environmental Response, Compensation and Liability Act of

1980, as amended, 42 U.S.C. § 9601, et seq. (“CERCLA”) as the National Contingency Plan, and codified at 40 CFR Part 300 and any amendments thereto.

- K. “Ohio EPA” means the Ohio Environmental Protection Agency.
- L. “Ohio EPA and U.S. EPA Guidance Documents” and “Applicable Guidance Documents” mean those documents identified in the Findings and Orders.
- M. “Parties” means collectively the State and Defendant Franklin Steel.
- N. “Plaintiff” or “State” means the Ohio EPA by and through the Attorney General of Ohio.
- O. “RCRA Facility Investigation” or “RFI” means those activities undertaken or to be undertaken to determine the nature and extent of the contamination at the Site caused by the disposal, discharge, or release of Waste Material, whether such disposal, discharge, or release, were alleged in the Complaint.
- P. “Response Costs” means all oversight and response costs as defined by CERCLA.
- Q. “RFI Statement of Work” and “RFI SOW” mean the outline of Work for the completion of the RFI.
- R. “RFI Work Plan” means those documents detailing the requirements necessary to complete the RFI, as more fully described in Appendix A to this COPI.
- S. “Site” means the Facility and any area beyond the Facility where Waste

Material from the Facility has migrated or threatens to migrate, including, but not limited to, Unzinger Ditch, a tributary of Blacklick Creek.

- T. “Waste Material” means (1) any “hazardous waste” under R.C. 3734.01(J) or Ohio Adm. Code 3745-50-10(A)(48) or 3745-51-03; (2) any “hazardous constituent or constituents” as that term is defined in Ohio Adm. Code 3745-50-10(A)(47) and listed in the appendix to Ohio Adm. Code 3745-51-11; (3) any “solid waste” under R.C. 3734.01(E); (4) any “industrial waste” under R.C. 6111.01(C); or any “other wastes” under R.C. 6111.01(D).
- U. “Work” means all activities Defendant is required to perform under this COPI.

III. JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 (Federal Question) and 42 U.S.C. § 9613(b) (CERCLA). This Court has jurisdiction over the claims brought under R.C. Chapters 3734 and 6111 and the rules adopted thereunder, and the common law, pursuant to 28 U.S.C. § 1367 (Supplemental Jurisdiction). This Court has jurisdiction over the Parties. Venue is proper in this Court. The Complaint states a claim upon which relief can be granted.

IV. PARTIES BOUND

4. The provisions of this COPI shall apply to and be binding upon the State, Defendant, and Defendant’s agents, officers, employees, assigns, and successors in interest. Defendant is ordered and enjoined to provide a copy of this COPI to each contractor it employs to perform Work

itemized herein. Defendant shall ensure that its contractors perform the Work contemplated herein in accordance with this COPI. No change in corporate ownership or status of Defendant, including, without limitation, any transfer of assets or real or personal property, shall in any way alter Defendant's obligations under this COPI.

V. CALCULATION OF TIME

5. Unless otherwise stated in this COPI, where this Order requires actions to be taken within a specified period of time (e.g., "within thirty (30) days"), this time period shall begin the day after the entry of this COPI unless the time is otherwise stated to start at another point in time. In computing any period of time under this COPI, where the last day would fall on a Saturday, Sunday or State of Ohio or federal holiday, the period shall run until the end of the next day that is not a Saturday, Sunday or legal holiday.

VI. RCRA FACILITY INVESTIGATION AND CORRECTIVE MEASURES STUDY

6. Defendant shall complete the Work as required by the RFI/CMS Statement of Work, Appendix A. Defendant submitted the RFI/CMS to Ohio EPA on December 31, 2008. Ohio EPA did not approve the RFI/CMS and provided written comments on the RFI dated February 23, 2009 and on the CMS dated February 25, 2009. On March 5, 2009, Defendant submitted a revised RFI, and the RFI was approved by Ohio EPA on March 13, 2009. On April 2, 2009, Defendants submitted a revised CMS to Ohio EPA. Ohio EPA did not approve the CMS and provided written comments on the CMS dated May 15, 2009. On June 3, 2009 and July 2, 2009, Defendants submitted revisions to the CMS to Ohio EPA. On July 10, 2009, Ohio EPA approved the CMS. The RFI/CMS and all other plans, reports, or other deliverables submitted by Defendant in accordance

with an approved schedule, will be reviewed and approved, approved upon condition, modified or disapproved by Ohio EPA pursuant to Section VIII., Review of Submittals. All Work performed by Defendant pursuant to the RFI/CMS, approved by Ohio EPA, and under the terms of the COPI shall be considered consistent with the NCP.

VII. SITE ACCESS

7. Defendant shall, to the best of its ability, ensure access to the Site for the Work required by this COPI.

8. Within thirty (30) days of the Effective Date of this COPI, and to the extent that Work necessary to the performance of the actions required by this COPI are not otherwise secured, Defendant shall initiate action to ensure access to the Site, and within 60 days of the Effective Date of this COPI, Defendant shall submit to Ohio EPA copies of access agreements to property not owned or controlled by Defendant.

9. Nothing in this COPI shall be construed to limit the statutory authority of the Director of Ohio EPA or his authorized representatives to enter at reasonable times upon any private or public property, real or personal, to inspect or investigate, obtain samples and examine or copy any records to determine compliance with R.C. Chapters 3734 and/or 6111.

VIII. REVIEW OF SUBMITTALS

10. This section applies to all documents Defendant is required to submit to Ohio EPA for review and approval in accordance with the requirements of this COPI.

11. All RFI/CMS documents submitted to Ohio EPA shall be developed in accordance with the RFI/CMS SOW (Appendix A) and the April 2, 2007, Ohio EPA Comment Letter. Every

document that Defendant is required to submit to Ohio EPA under this COPI is subject to the review and approval of Ohio EPA in accordance with this COPI and applicable state and federal laws. Upon review, Ohio EPA may, at its sole discretion, (a) approve the submission in whole or in part; (b) approve the submission upon specified conditions or modifications; (c) modify the submission; (d) disapprove the submission in whole or in part; (e) notify Defendant of deficiencies; or (f) any combination of the above. Ohio EPA shall not unreasonably withhold its approval.

12. If Ohio EPA disapproves a submittal, in whole or in part, Ohio EPA will notify Defendant of the deficiencies in writing. Defendant shall, within forty-five (45) days of receipt of Ohio EPA's written notice, or if supplemental field, laboratory, or other investigatory work must be performed, within forty-five (45) days of completion of such work, or such longer period of time as specified in writing by Ohio EPA, correct the deficiencies and submit a revised submission to Ohio EPA for approval. Notwithstanding the notice of deficiency, Defendant shall proceed to take any action(s) required by the approved portion(s) of the submission.

13. If Ohio EPA does not approve a revised submission, in whole or in part, Ohio EPA may again require Defendant to correct the deficiencies and incorporate all changes, additions, and/or deletions within fourteen (14) days, or such time period as specified by Ohio EPA in writing. In the alternative, Ohio EPA may approve upon condition, modify or disapprove the revised submission.

14. In the event of Ohio EPA approval or approval upon conditions or modifications of Defendant's submittal pursuant to this COPI, Defendant shall proceed to take any action required by the submission as approved by Ohio EPA.

15. All items required to be submitted to Ohio EPA under this COPI shall, upon approval by Ohio EPA, be deemed to be incorporated in and made an enforceable part of this COPI. In the event that Ohio EPA approves a portion of any such item, the approved portion, together with any modifications or conditions thereto, shall be deemed to be incorporated in and made an enforceable part of this COPI.

IX. DISPUTE RESOLUTION

16. This Section shall only be applicable to the following portions of this COPI: Section VII, RCRA Facility Investigation and Corrective Measures Study; and Section VIII, Review of Submittals, pursuant to the limitations identified in Paragraph 17.

17. The Project Coordinators shall, whenever possible, operate by consensus. In the event that a disagreement arises about either the adequacy or disapproval of any item required to be submitted by Defendant pursuant to this COPI, then the Project Coordinators shall have fifteen (15) days from the date the dispute arises to negotiate in good faith in an attempt to resolve the differences. The dispute arises when either the Ohio EPA Project Coordinator provides written notice of dispute to the Defendant's Project Coordinator provides a written notice of dispute to the Ohio EPA Project Coordinator. This fifteen (15) day period may be extended by mutual agreement of the Parties.

18. In the event that the Project Coordinators are unable to reach a resolution of the dispute, then each Project Coordinator shall reduce his or her position to writing and supply it to the other Party's Project Coordinator within thirty (30) days of the end of the good faith negotiations referenced in Paragraph 17. Following the exchange of written positions, the Parties

shall have an additional seven (7) days to resolve their dispute. If Ohio EPA concurs with the position of the Defendant, then the item required to be submitted pursuant to this COPI shall be modified as provided for by Ohio EPA.

19. If Ohio EPA does not concur with the position of Defendant, the Ohio EPA Site Coordinator will notify Defendant in writing. Upon receipt of such written notice, the Parties shall have seven (7) days to forward a request for resolution of the dispute, along with a written statement of the dispute, to the DERR Manager. The statement of dispute shall be limited to a concise presentation of the Parties' position on the dispute. The DERR Assistant Chief, or his/her designee, will resolve the dispute based upon and consistent with this COPI; federal and state law, including R.C. Chapters 3734 and 6111, and the rules promulgated thereunder.

20. If Defendant and Ohio EPA do not agree on a resolution of the dispute within fourteen (14) days of the decision reached by the DERR Assistant Chief, either Party may petition this Court to resolve the dispute under this COPI. In such a proceeding, Defendant shall have the burden of demonstrating by a preponderance of the evidence that the decision by Ohio EPA is unlawful and/or unreasonable.

21. The pendency of dispute resolution set forth in this Section shall not affect the time period for completion of the Work to be performed under this COPI, except that upon written mutual agreement of the Parties or directive of the Court, any time may be extended as appropriate under the circumstances. Elements of Work not affected by the dispute will be completed in accordance with the schedules contained in the approved RFI and CMS.

22. Within thirty (30) days of resolution of a dispute, or such additional time as the

Parties may agree upon or the Court may direct, regarding disapproval or inadequacy of a submittal or the need for additional Work, Defendant shall incorporate the resolution and final determination into the report, or other item required to be submitted under this COPI and proceed to implement this COPI according to the amended report, or other item required to be submitted under this COPI.

23. Unless otherwise expressly provided for in this COPI, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to those matters set forth in Paragraph 16 of this COPI.

X. ESCROW AGREEMENT

24. An Escrow Agreement, dated November 15, 2005, and a First Amendment to Escrow Agreement, dated April 20, 2007 ("Escrow Agreement") has been entered into by Defendant and Columbus QCB, Inc. for the purpose of addressing conditions at the Site

25. Within thirty (30) days of the Effective Date of this COPI, Defendant shall submit to Ohio EPA a statement of the remaining dollar amount of Escrow Funds. Defendant shall submit an updated statement of such dollar amounts every two months thereafter.

XI. REIMBURSEMENT OF COSTS

26. Ohio EPA has incurred and continues to incur Response Costs in connection with the Site. Ohio EPA's unpaid Response Costs, through December 31, 2008 (except for Enforcement Response Costs incurred after December 31, 2007), in connection with the Site total \$195,830.49. Within forty-five (45) days of the Effective Date, Defendant shall pay the \$195,830.49 to Ohio EPA in full satisfaction of its obligations for Response Costs through December 31, 2008.

27. Defendant shall remit payments to Ohio EPA pursuant to this Section as follows:
- a. Payment shall be made by bank check payable to "Treasurer, State of Ohio" and shall be forwarded to Fiscal Officer, Ohio EPA, P.O. Box 1049, Columbus, Ohio 43216-1049.
 - b. A copy of the transmittal letter and check shall be sent to the Fiscal Officer, DERR, Ohio EPA, P.O. Box 1049, Columbus, Ohio 43216-1049, and to the Site Coordinator and the Assistant Attorney General assigned to this case.

XII. ACCESS TO INFORMATION AND RECORD RETENTION

28. Defendant shall comply with Section XI. and XII. of the Findings and Orders. In addition, Defendant shall provide to Ohio EPA, upon request, copies of all non-privileged documents and information within its possession or control or within possession or control of its contractors or agents relating to the Work required by the Findings and Orders and this COPI including, but not limited to manifests, reports, correspondence, or other documents or information related thereto.

XIII. RESERVATION OF RIGHTS

29. The State reserves the right to seek further relief from this or any Court including without limitation further preliminary and/or permanent injunctive relief, civil penalties for the claims in the Complaint, cost recovery for Response Costs incurred after December 31, 2008, and cost recovery for Enforcement Response Costs incurred after December 31, 2007, including but not limited to \$9,322.69 in Enforcement Response Costs incurred by Ohio EPA. This reservation explicitly includes the State's right to pursue an order implementing a remedy for contamination at the Site and to seek recovery of costs for such work. This reservation also explicitly includes the State's right to seek relief for claims for damages to natural resources. This COPI does not waive any causes of action or defenses which the Defendant may have as to the State or third parties.

30. Nothing in this COPI shall be construed to limit the authority of the State to undertake any action against any entity, including the Defendant, to eliminate or mitigate conditions that may present an imminent threat to the public health, welfare or environment and to seek cost reimbursement for any such action.

31. Nothing in this COPI shall relieve Defendant of any obligation to comply with R.C. 3734 and 6111 including, without limitation, any regulation, license or order issued under these Chapters, and any other applicable federal, state or local statutes, regulations, or ordinances, including but not limited to permit requirements.

32. The State reserves the right to seek legal and/or equitable relief to enforce the requirements of this COPI, including stipulated penalties and/or contempt penalties or sanctions against Defendant for noncompliance with this COPI.

33. The State reserves the right, upon notice, hearing and approval of the Court, to terminate this COPI and/or perform all or any Work or take any other measures it deems necessary to protect public health and the environment, including recovery of all Response Costs, in the event that the requirements of this COPI are not wholly complied with within the time frames required by this COPI.

XIV. OTHER CLAIMS

34. Nothing in the Findings and Orders or this COPI shall constitute or be construed as a satisfaction or release from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation, not subject to this COPI, including the remaining Defendants, for any liability arising from, or related to, events or conditions at the Site, or for any

liability such person may have under CERCLA, other statutes or common law, including but not limited to any claims of the State for costs, damages and interest under Sections 106 and 107 of CERCLA, U.S.C. §§ 9606 and 9607, and Defendant has not purported to or held itself out as representing another person, firm, partnership, or corporation. Defendant expressly denies that it is the agent for or that it represents, or otherwise has the authority to represent, or serve the interests of another person, firm, partnership, or corporation.

XV. TERMINATION

35. This COPI shall terminate upon a joint motion of Ohio EPA and Defendant, and approval of the Court, following completion of all activities required under this COPI. This Section, and the Sections of this COPI on Reservation of Rights and Access to Information, shall survive this Termination Provision.

XVI. MODIFICATION

36. No modification shall be made to this COPI without the written agreement of Ohio EPA, Defendant and the Court.

XVII. MAILING AND DELIVERY OF DOCUMENTS

38. Other than cost reimbursement as set forth in Section XI and payment of stipulated penalties as set forth in Section XXI, all documents requiring submittal pursuant to this COPI shall be sent by certified mail return receipt requested, or equivalent, to:

Ohio EPA Central District Office
Division of Emergency and Remedial Response
Attn. Franklin Steel Site Coordinator
Lazarus Government Center
50 West Town Street, Suite 700
Columbus, OH 43215

All correspondence with Defendant Franklin Steel shall be sent to the following:

Richard P. Fahey
Paul J. Coval
Vorys, Sater, Seymour and Pease, LLP
52 E. Gay Street
Columbus, OH 43215

XVIII. COMPLIANCE WITH APPLICABLE LAWS, PERMITS AND APPROVALS

38. All activities undertaken by Defendant pursuant to this COPI shall be undertaken in accordance with the requirements of all applicable federal, state and local laws, rules, regulations and permits or other legal requirements, including this COPI. Defendant shall submit timely applications and requests for any such permits and approvals. Where such laws appear to conflict with the other requirements of this COPI, Defendant is ordered and enjoined to immediately notify Ohio EPA of the potential conflict. Defendant is ordered and enjoined to include in all contracts or subcontracts entered into for Work required under this COPI, provisions stating that such contractors or subcontractors, including their agents and employees, shall perform all activities required by such contracts or subcontracts in compliance with this COPI and all applicable laws and rules. This COPI is not a permit issued pursuant to any federal, state or local law or rule.

39. Should Defendant identify any inconsistency between or among COPI, any applicable federal, state or local laws, rules, regulations or permits or other legal requirements, or any of the

guidance documents, reports, or other items required to be submitted to Ohio EPA under the Findings and Orders or this COPI, Defendant shall promptly notify Ohio EPA in writing of each inconsistency not later than thirty (30) days after identifying the inconsistency and the effect of the inconsistencies upon the Work to be performed. Defendant shall also recommend, along with a supportable rationale justifying each recommendation, the requirement Defendant believes should be followed. Defendant shall implement the affected Work as directed by Ohio EPA.

XIX. STAY OF LITIGATION

40. Other than for the purpose of enforcing compliance with this COPI, the State and Defendant agree that all further proceedings in this case, including but not limited to propounding discovery, shall be stayed pending further order of this Court. The State and Defendant reserve the right to move the Court to lift such stay.

XX. APPENDIX AND DOCUMENTS APPROVED PURSUANT TO THIS COPI

41. The Parties agree that Appendix A attached to this COPI and all documents approved by Ohio EPA pursuant to the requirements of this COPI are incorporated by reference into and are an enforceable part of this COPI.

XXI. STIPULATED PENALTIES

42. In the event that any Ohio EPA-approved deadline contained in the schedule of any approved submittal required by this COPI is not met, Defendant is ordered and enjoined to pay stipulated penalties that shall accrue in the amount of One Hundred Dollars (\$100) per day, per violation for the first fifteen (15) days of non-compliance; Two Hundred and Fifty Dollars (\$250) per day, per violation for the 16th day through the 30th day of noncompliance; and Five Hundred

(\$500) per day, per violation for violations lasting beyond thirty (30) days.

43. Stipulated penalties shall not begin to accrue for days 1 and 2, as indicated in the above schedules, if the milestone requirement or report submission deadline is met on or before day 3. If a milestone requirement or report submission deadline is not met on or before day 3, the Defendant shall be liable for stipulated penalties for days 1, 2, and 3 in addition to the days thereafter, until the milestone requirement or report submission deadline is met.

44. Any payment of stipulated penalties accrued under the provisions of Paragraphs 42 and 43 shall be made by delivering to the Environmental Enforcement Section of the Ohio Attorney General, State Office Tower, 30 East Broad Street - 25th Floor, Columbus, Ohio 43215, Attn: Karen Pierson, or her successor, a certified check(s) for the appropriate amounts(s), within fourteen (14) days from the date the default is cured, made payable to "Treasurer, State of Ohio" to be deposited into the Hazardous Waste Clean-up Account, created pursuant to R.C. Section 3734.28.

XXII. NEGOTIATION OF FINAL CONSENT ORDER

45. Upon termination of this COPI, the State and Defendant agree to meet and confer in good faith concerning the negotiation of a final consent order that may include, but not necessarily be limited to, a permanent injunction implementing the Remedial Design and Remedial Action ("RD/RA") for the selected remedy, the payment of Response Costs incurred after December 31, 2008, the payment of civil penalties and/or supplemental environmental projects for claims alleged in the Complaint, a covenant not to sue for Defendant, a final resolution of Defendant's liability to the State of Ohio for the claims alleged in the Complaint, and a final reservation of rights for the State.

XXIII. ENTRY OF COPI BY CLERK

46. Upon signing of this COPI by the Court, the clerk is directed to enter it upon the journal. Within three (3) days of entering the COPI upon the journal, the clerk is directed to serve upon all Parties' notice of the COPI and its effective date upon the journal, in the manner prescribed by Rule 5(b) of the Federal Rules of Civil Procedure and note the service in the appearance docket.

XXIV. AUTHORITY TO ENTER INTO THE COPI

47. The signatory for the Defendant, by signing below, represents and warrants that he/she has been duly authorized to sign this document and so bind Franklin Steel to all terms and conditions thereof, and that he/she submits as an attachment to this COPI an authenticated and certified resolution from Franklin Steel establishing that he/she is so empowered.

XXV. EFFECTIVE DATE

48. This COPI shall be effective upon the date of its entry by the Court.

IT IS SO ORDERED.

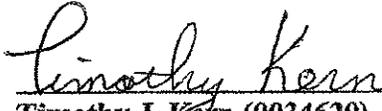
MAGISTRATE JUDGE NORAH MCCANN KING

s/Norah McCann King

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO**

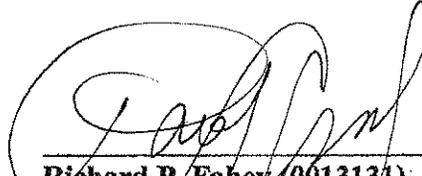
Date: September 17, 2009

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Company, aka Franklin Steel Company, Inc.*

**FRANKLIN STEEL COMPANY
aka FRANKLIN STEEL COMPANY, INC.**

signature: 

print/type name: Paul J. Coval

title: President

Attachment I

GENERIC SCOPE OF WORK
RCRA FACILITY INVESTIGATION
STATE VERSION

REMEDIAL INVESTIGATION

PURPOSE

The purpose of this RCRA Facility Investigation (RFI) is to determine the nature and extent of releases of hazardous waste or constituents, pollutants, wastes, industrial wastes or contaminants from regulated units, solid waste management units, and other sources at the site or facility and to gather all necessary data to support the Corrective Measures Study. The respondent shall furnish all personnel, materials, and services necessary for, or incidental to, performing the RCRA Facility Investigation at Franklin Steel Company, Blacklick, Ohio.

SCOPE

The RCRA Facility Investigation consists of seven tasks:

- Task I Description of Current Conditions
 - A. Facility or Site Background
 - B. Nature and Extent of Contamination
 - C. Implementation of Interim Measures

- Task II Pre-Investigation Evaluation of Corrective Measure Technologies

- Task III RFI Workplan Requirements
 - A. Project Management Plan
 - B. Data Collection Quality Assurance Plan
 - C. Data Management Plan
 - D. Health and Safety Plan
 - E. Community Relations Plan

- Task IV RCRA Facility Investigation
 - A. Environmental Setting
 - B. Source Characterization
 - C. Contamination Characterization
 - D. Potential Receptor Identification

- Task V Investigation Analysis

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Data Analysis
Protection Standards

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By: Mary Gavin Date 6-23-92

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By: Mary Carwin Date 6-23-92

Task VI Laboratory and Bench-Scale Studies

Task VII Reports

- A. Preliminary and Workplan
- B. Progress
- C. Draft and Final

TASK I: DESCRIPTION OF CURRENT CONDITIONS

The Respondent shall describe the background of the site or facility, its current condition and outline the purpose and need for remedial investigation of the site or facility. Data gathered during previous investigations, site inspections and other relevant activities shall be used. Previous investigations shall be summarized and referenced.

A. Site or Facility Background. Respondent shall prepare a report of the regional location, pertinent area boundary features, general site or facility physiography, hydrology, geology, and current and historic land and water use. The total area of the site or facility for hazardous or solid waste or hazardous substance activity should be defined. The Respondent's report shall include:

1. Map(s) depicting the following:
 - a. General geographic location;
 - b. Property lines with owners of all adjacent property clearly indicated;
 - c. Topography and surface drainage depicting all waterways, wetlands, floodplains, water features, drainage patterns, and surface water containment areas.
 - d. All tanks, buildings, utilities, paved areas, easements, rights-of-way, and other features;
 - e. All solid or hazardous waste treatment, storage or disposal areas activities after November 19, 1980;
 - f. All known past and present solid or hazardous waste treatment, storage or disposal areas regardless of whether they were active on November 19, 1980;
 - g. All known past and present product and waste underground tanks or piping;

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- h. General types of vegetative cover (wetlands, grasses, weeds, shrubs and trees) at the site or facility; their areal extent; the species, height and diameter of trees at the facility or site; the quality of the vegetation as wildlife habitat, food source for wildlife or migration corridor for wildlife; any site or facility features that would tend to attract wildlife from surrounding areas; a list of game fish and game animals that use the site or facility and an interpretation of the site's significance to those species;
- i. Surrounding land uses (residential, commercial, agricultural, recreational, wildlife habitat) and demographics; and
- j. A summary of any fish, wildlife or domestic animal kills or diseases that may be related to releases.
- k. The location of all public, private and industrial production and ground water monitoring wells within a one mile radius of the site or facility. These wells shall be clearly labeled, and ground and top-of-casing elevations and construction details included (these elevations and details may be included as an attachment). This information should include installation methods, if known, and copies of well logs available from the Ohio Department of Natural Resources; Division of Water.

All maps shall be consistent with the requirements set forth in 40 CFR 270.14 and OAC rule 3745-50-44 and be of sufficient detail and accuracy to locate and report all current and future work performed at the site. All elevation data should correspond with U.S.G.S. Datum (Mean Sea Level).;

- 2. A description of regional hydrogeology/geology in the vicinity of the site or facility. The description should be based on existing information, such as well logs filed at Ohio Department of Natural Resources (ODNR), ODNR groundwater and basin maps, soil surveys and U.S.G.S. topographic maps or any site-specific work that has been conducted. (If site-specific work has been conducted, the methods and procedures used to collect the data shall be included.)

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The description shall include:

- a. Depth to bedrock and lithology;
 - b. Characteristics of major stratigraphic units and the depositional environment;
 - c. The average yield of water wells within a one mile radius of the site or facility;
 - d. Direction of ground water flow in regional aquifer systems;
 - e. Identification and characterization of recharge and discharge areas, including amount of recharge and discharge;
 - f. A description of the regional geomorphology, including locations of surface water bodies, floodways, etc. This description should include an analysis of any topographic features that may influence the groundwater flow system, and;
 - g. A description of structural features such as jointing, faulting and folding.
3. A history and description of ownership and operation, solid and hazardous waste generation, treatment, storage and disposal activities at the facility or site;
 4. Appropriate dates or periods of past product and waste spills, identification of the materials spilled, the amount spilled, the amount recovered, if known, the location where spilled and a description of the response actions conducted (local, state, or federal response units or private parties), including any inspection reports or technical reports generated as a result of the response; and
 5. A summary of past permits requested and/or received, any enforcement actions and their subsequent responses, and a list of documents and studies prepared for the facility.
- B. Nature and Extent of Contamination. Respondent shall prepare a report describing the existing information on the nature and extent of contamination.

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1. The Respondent's report shall discuss all possible source areas of contamination. This, at a minimum, should include all regulated units, waste management units, spill areas, and other suspected source areas of contamination. For each area, Respondent shall identify the following:
 - a. Location of unit/area (which shall be depicted on a facility or site map);
 - b. Quantities of solid and hazardous wastes;
 - c. Hazardous waste or constituents, to the extent known; and
 - d. Identification of areas where additional information is necessary.
2. The Respondent shall prepare an assessment and description of the existing degree and extent of contamination. This shall include:
 - a. Available monitoring data and qualitative information on locations and levels of contamination at the site or facility;
 - b. All potential migration pathways including information on geology, pedology, hydrogeology, physiography, hydrology, biological features, water quality, meteorology, air quality; and
 - c. The potential impact(s) on human health and the environment, (which includes physical, chemical and biological components), including demography, ground-water and surface-water use, land use.
- C. Implementation of Interim Measures.
 1. The Respondent's report shall document interim measures which were or are being undertaken at the site or facility. This shall include:
 - a. Objectives of the interim measures: how the measure is mitigating a potential threat to human health and the environment and/or is consistent with and integrated into any long term remedial action at the facility or site;

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- b. Design, construction, operation and maintenance requirements;
 - c. Schedules for design, construction and monitoring; and
 - d. Schedule for progress reports.
2. At any time during the Remedial Investigation, Respondent or OEPA may suggest that the Respondent conduct an interim remedial action. The following factors shall be considered in determining the appropriateness of an interim remedial action:
- a. Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous wastes or substances;
 - b. Actual or potential contamination of drinking water supplies or sensitive ecosystems;
 - c. Hazardous waste or substances in drums, barrels, tanks or other bulk storage containers that may pose a threat of release;
 - d. High levels of hazardous waste or substances in soils largely at or near the surface that may migrate;
 - e. Weather conditions that may cause hazardous waste or substances to migrate or be released;
 - f. Threat of fire or explosion; and
 - g. Other situations or factors that may pose threats or public health, welfare or the environment.

TASK II: PRE-INVESTIGATION EVALUATION OF CORRECTIVE MEASURE TECHNOLOGIES

Prior to starting the RCRA Facility investigation, Respondent shall prepare a report that identifies the potential Corrective Measure technologies that may be used on-site or off-site for the

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containment, treatment, remediation, and/or disposal of contamination or contaminated media. This report shall also identify any field data that needs to be collected in the RCRA Facility Investigation to facilitate the evaluation and selection of the final corrective measure or measures (e.g., compatibility of waste and construction materials, information to evaluate effectiveness, treatability of waste or contaminated media, etc.).

TASK III: RFI WORKPLAN REQUIREMENTS

The respondent shall prepare a RCRA Facility Investigation (RFI) Workplan. The RFI Workplan shall include the development of several plans, which shall be prepared concurrently. During the RCRA Facility Investigation, it may be necessary to revise the RFI Workplan to increase or decrease the detail of information collected to accommodate the facility specific situation. The RFI Workplan includes the following:

A. Project Management Plan

Respondent shall prepare a Project Management Plan which will include a discussion of the technical approach, schedules, budget, and personnel. The Project Management Plan also will include a description of the qualifications of personnel performing or directing the RFI, including contractor personnel. This plan shall document the overall management approach to the RCRA Facility Investigation.

B. Data Collection Quality Assurance Plan

Respondent shall prepare a plan to document all monitoring procedures, sampling, field measurements and sample analyses performed during the investigation to characterize the environmental setting, source, and contamination to ensure that all information, data, and resulting decisions are technically sound, statistically valid and properly documented.

1. Data Collection Strategy

The strategy section of the Data Collection Quality Assurance Plan shall include but not be limited to the following:

- a. Description of the intended uses for the data, and the necessary level of precision and accuracy for these intended uses;

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- b. Description of methods and procedures to be used to assess the precision, accuracy, and completeness of the measurement data;
- c. A description of the rationale used to assure that the data accurately and precisely represent a characteristic of a population, parameter variations as a sampling point, a process condition or an environmental condition. Examples of factors which shall be considered and discussed include:
 - i) Environmental conditions at the time of sampling;
 - ii) Number of sampling points;
 - iii) Representativeness of selected media; and
 - iv) Representativeness of selected analytical parameters;
- d. Description of the measures to be taken to assure that the following data sets can be compared to each other:
 - i) RFI data collected by the Respondent over some time period;
 - ii) RFI data generated by an outside laboratory or consultant employed by the Respondent versus data collected by Respondent, and;
 - iii) Data generated by separate consultants or laboratories over some time period not necessarily related to the RFI effort.
- e. Details relating to the schedule and information to be provided in quality assurance reports. The reports should include but not be limited to:
 - i) Periodic assessment of measurement data accuracy, precision, and completeness;
 - ii) Results of performance audits;
 - iii) Results of system audits;

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- iv) Significant quality assurance problems and recommended solutions; and
- v) Resolutions of previously stated problems.

2. Sampling

The Sampling section of the Data Collection Quality Assurance Plan shall discuss:

- a. Selecting appropriate sampling locations, depths, etc.;
- b. Providing a statistically sufficient number of sampling sites;
- c. Measuring all necessary ancillary data;
- d. Determining conditions under which sampling should be conducted;
- e. Determining which media are to be sampled (e.g., groundwater, air, soil, sediment, biota, etc.);
- f. Determining which parameters are to be measured and where;
- g. Selecting the frequency of sampling and length of sampling period;
- h. Selecting the types of samples (e.g., composites vs. grabs) and number of samples to be collected;
- i. Selecting the number, location and media for determining background conditions;
- j. Measures to be taken to prevent contamination of the sampling equipment and cross contamination between sampling points;
- k. Documenting field sampling operations and procedures, including:
 - i) Documentation of procedures for preparation of reagents or supplies which become an integral part of the sample (e.g., filters, and adsorbing reagents);

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- ii) Procedures and forms for recording the exact location and specific considerations associated with sample acquisition;
 - iii) Documentation of specific sample preservation methods;
 - iv) Calibration of field devices;
 - v) Collection of replicate and field duplicate samples;
 - vi) Submission of field-biased and equipment blanks, where appropriate;
 - vii) Potential interferences present at the site or facility;
 - viii) Construction materials and techniques, associated with monitoring wells and piezometers;
 - ix) Field equipment listing and sample containers;
 - x) Sampling order; and
 - xi) Decontamination procedures.
- l. Selecting appropriate sample containers;
 - m. Sample preservation; and
 - n. Chain-of-custody, including:
 - i) Standardized field tracking reporting forms to establish sample custody in the field prior to shipment and during shipment;
 - ii) Sample sealing, storing and shipping procedures to protect the integrity of the sample; and,
 - iii) Prepared sample labels containing all information necessary for effective sample tracking.

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3. Field Measurements By: Mary Gavin Date 6-23-92

The Field Measurements section of the Data Collection Quality Assurance Plan shall discuss:

- a. Selecting appropriate field measurement locations, depths, etc.;
- b. Providing a statistically sufficient number of field measurements;
- c. Measuring all necessary ancillary data;
- d. Determining conditions under which field measurements should be conducted;
- e. Determining which media are to be addressed by appropriate field measurements (e.g., groundwater, air, soil, sediment, etc.);
- f. Determining which parameters are to be measured and where;
- g. Selecting the frequency of field measurement and length of the field measurements period; and
- h. Documenting field measuring operations and procedures, including:
 - i) Procedures and forms for recording raw data and the exact location time and site or facility specific considerations associated with data acquisition;
 - ii) Calibration of field devices;
 - iii) Collection of replicate measurements;
 - iv) Submission of field-biased blanks, where appropriate;
 - v) Potential interferences present at the site or facility;
 - vi) Construction materials and techniques, associated with monitoring wells and piezometers used to collect field data;
 - vii) Field equipment listing;

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viii) Order in which field measurements were made; and

ix) Decontamination procedures;

4. Sample Analysis

The Sample Analysis section of the Data Collection Quality Assurance Plan shall specify the following:

a. Chain-of-custody procedures, including:

- i) Identification of a responsible party to act as sample custodian at the laboratory, who is authorized to sign for incoming field samples, obtain documents of shipment, and verify the data entered onto the sample custody records;
- ii) Provision for a laboratory sample custody log consisting of serially numbered standard lab-tracking report sheets; and
- iii) Specification of laboratory sample custody procedures for sample handling, storage, and dispersion for analysis;

b. Sample storage procedures and storage times;

c. Sample preparation methods;

d. Analytical procedures, including:

- i) Scope and application of the procedure;
- ii) Sample matrix;
- iii) Potential interferences;
- iv) Precision and accuracy of the methodology; and
- v) Method detection limits;

e. Calibration procedures and frequency;

f. Data reduction, validation and reporting;

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- g. Internal quality control checks, laboratory performance and system audits and frequency, including:
 - i) Method blank(s);
 - ii) Laboratory control sample(s);
 - iii) Calibration check sample(s);
 - iv) Replicate sample(s);
 - v) Matrix-spiked sample(s);
 - vi) "Blind" quality control sample(s);
 - vii) Control charts;
 - viii) Surrogate samples;
 - ix) Zero and span gases; and
 - x) Reagent quality control checks;
- h. Preventative maintenance procedures and schedules;
- i. Corrective action (for laboratory problems); and
- j. Turnaround time.

C. Data Management Plan

The Respondent shall develop and initiate a Data Management Plan to document and track investigation data and results. This plan shall identify and set up data documentation materials and procedures, project file requirements, and project-related progress reporting procedures and documents. The plan shall also provide the format to be used to present the raw data and conclusions of the investigation.

1. Data Record

The data record shall include the following:

- a. Unique sample or field measurement code;
- b. Sampling or field measurement location and sample or measurement type;

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- c. Sampling or field measurement raw data;
- d. Laboratory analysis ID number;
- e. Property or component measured; and
- f. Result of analysis (e.g., concentration).

2. Tabular Displays

The following data shall be presented in tabular displays:

- a. Unsorted (raw) data;
- b. Results for each medium, or for each constituent monitored;
- c. Data reduction for statistical analysis;
- d. Sorting of data by potential stratification factors (e.g., location, soil layer, topography); and
- e. Summary data.

3. Graphical Displays

The following data shall be presented in graphical formats (e.g., bar graphs, line graphs, area or plan maps, isopleth plots, cross-sectional plots or transects, three dimensional graphs, etc.):

- a. Display sampling location and sampling grid;
- b. Indicate boundaries of sampling area, and areas where more data are required;
- c. Display levels of contamination at each sampling location;
- d. Display geographical extent of contamination;
- e. Display contamination levels, averages, and maxima;
- f. Illustrate changes in concentration in relation to distance from the source, time, depth or other parameters; and

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g. Indicate features affecting intramedia transport and show potential receptors.

D. Health and Safety Plan. The Respondent shall develop a Health and Safety Plan plan to protect the health and safety of personnel involved in the site investigations and the surrounding community.

1. Major elements of the Health and Safety Plan shall include:
 - a. Facility or site description including availability of resources such as roads, water supplies, electricity and telephone service;
 - b. Description of the known hazards and an evaluation of the risks associated with the incident and with each activity conducted;
 - c. Listing of key personnel (including the site safety and health officer) and alternates responsible for site safety, response operations, and for protection of public health;
 - d. Delineation of work area, including a map;
 - e. Description of levels of protection to be worn by personnel in the work area;
 - f. Description of the medical monitoring program for on-site responders;
 - g. Description of standard operating procedures established to assure the proper use and maintenance of personal protective equipment;
 - h. The establishment of procedures to control site access;
 - i. Description of decontamination procedures for personnel and equipment;
 - j. Establishment of site emergency procedures;
 - k. Availability of emergency medical care for injuries and toxicological problems;
 - l. Description of requirements for an environmental monitoring program. (This should include a description of the frequency and type of air and

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- personnel monitoring, environmental sampling techniques and a description of the calibration and maintenance of the instrumentation used.);
- m. Specification of any routine and special training required for responders; and
 - l. Establishment of procedures for protecting workers from weather-related problems.
2. The Health and Safety Plan shall be consistent with:
- a. NIOSH Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities (1985);
 - b. Section 111(c)(6) of CERCLA;
 - c. EPA Order 1440.1 -- Respiratory Protection;
 - d. EPA Order 1440.3 -- Health and Safety Requirements for Employees engaged in Field Activities;
 - e. EPA Occupational Health and Safety Manual;
 - f. EPA Interim Standard Operating Safety Procedures and other EPA guidance as developed by EPA;
 - g. OSHA regulations, particularly in 29 CFR 1910 and 1926;
 - h. State and local regulations; and
 - i. Site or facility conditions.

The Safety Plan should identify problems or hazards that may be encountered and their solution. Safety procedures to be followed to protect third parties, such as visitors or the surrounding community, should also be provided.

- E. Community Relations Plan. The Respondent shall prepare a plan for the dissemination of information to the public regarding investigation activities and results.

1. The Community Relations Plan shall be consistent with Community Relations in Superfund: A Handbook (Interim Version), EPA/540/G-881002, OSWER Directive 9230.0-3B, June 1988.

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TASK IV: RCRA FACILITY INVESTIGATION

The Respondent shall conduct those investigations necessary to: characterize the site or facility (Environmental Setting); define the source (Source Characterization); define the degree and extent of contamination (Contamination Characterization); and identify actual or potential receptors.

The investigations should result in data of adequate technical quality to support the development and evaluation of the remedial action alternatives of the Corrective Measures Study.

RCRA Facility Investigation activities shall follow the plans set forth in Task 3. All sampling and analyses shall be conducted in accordance with the Data Collection Quality Assurance Plan. All sampling locations shall be documented in a log and identified on a detailed site map.

A. Environmental Setting

The Respondent shall collect information to supplement and verify existing information on the environmental setting at the facility or site. The Respondent shall characterize the following:

1. Regional Hydrogeology

The Respondent shall conduct a program to evaluate the regional hydrogeologic characteristics in the vicinity of the facility. Regional information can be obtained as described in Task 1. This shall include but not be limited to:

- a. Depth to bedrock and lithology;
- b. Characteristics of major stratigraphic units and the depositional environment;
- c. Identification of regional aquifer(s);
- d. Average yield of water wells within a one mile radius of the site or facility;
- e. Direction of ground water flow in the regional aquifer(s);
- f. Identification and characterization of recharge and discharge areas, with amount of recharge and discharge;

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- g. Description of regional geomorphology, including locations of surface water bodies and floodways, etc. This description should include an analysis of any topographic features that may influence the ground water flow system; and
- h. Description of structural features such as jointing, faulting and folding.

2. Site Hydrogeology

The Respondent shall conduct a program to evaluate site-specific hydrogeologic conditions at the site or facility. This description shall be based on data collected from bore holes, piezometers and field tests. The description shall include:

- a. An accurate classification and description of the consolidated and unconsolidated stratigraphic units from the ground surface down to the base of the uppermost aquifer. This shall include:
 - i) Hydraulic conductivity (vertical and horizontal);
 - ii) Porosity and bulk density;
 - iii) Rock and soil (Unified Soil Classification System) types;
 - iv) Grain size distribution (sieve and hydrometer) curves;
 - v) Thickness;
 - vi) Lateral extent;
 - vii) Moisture content;
 - viii) The attenuation capacity and mechanisms of the natural earth materials (i.e., ion exchange capacity, organic carbon content, mineral content, soil sorptive capacity, storage capacity).
 - ix) Soil pH.

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- b. Respondent shall conduct a program to characterize the soil and rock units above the water table in the vicinity of the contaminant release(s). Such characterization shall include but not be limited to the following:
 - i) SCS soil classification;
 - ii) Surface soil distribution;
 - iii) Soil profile, including ASTM classification of soils;
 - iv) Transects of soil stratigraphy;
 - v) Effect of stratification on unsaturated flow;
 - vi) Infiltration; and
 - vii) Evapotranspiration.
- c. A description of the geomorphology at the site or facility;
- d. A description of the structural geology at the site or facility;
- e. A discussion of the local occurrence of groundwater including:
 - i) Identification of the uppermost aquifer system, including its depth from the surface and lateral and vertical extent. (Aquifer system means one or more geologic unit or formation that is wholly or partly saturated with water and is able to store, transmit any yield significant amounts of water to wells or springs.);
 - ii) Identification of all significant saturated zones above the uppermost aquifer system;
 - iii) Depth to the water table;
 - iv) Vertical and horizontal hydraulic conductivity of the uppermost and all strata above the uppermost aquifer;

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- v) Ground water flow direction and rates in the uppermost aquifer and all strata above the uppermost aquifer;
 - vi) Description of the interconnection between the saturated zones and the uppermost aquifer, surface water, seeps and springs;
 - vii) Description of recharge and discharge area within the site or facility boundaries. This shall include any relationship between ground water and springs, streams and other surface water features;
 - viii) Temporal fluctuations (i.e., seasonal and man-made) in ground water levels and the effects on ground water flow direction; and
 - ix) Identification of zones of high permeability that may act as a migration route for contaminants.
- f. Hydrogeologic cross sections showing the extent (depth, thickness and lateral extent) of hydrogeologic units shall be developed. At a minimum, the following shall be identified:
- i) Sand and gravel deposits in unconsolidated deposits;
 - ii) Zones of fracturing or channeling in consolidated or unconsolidated deposits;
 - iii) Zones of high permeability or low permeability that might direct or restrict the flow of contaminants;
 - iv) Zones of low permeability that may restrict and/or attenuate the flow of contaminants;
 - v) Water-bearing zones above the first confining layer that may serve as a pathway for contaminant migration including perched zones of saturation.
- g. Based on data obtained from groundwater monitoring wells and piezometers installed upgradient and downgradient of the potential

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contaminant source, a representative description of water level or fluid pressure monitoring including:

- i) Water-level contour and/or potentiometric surface maps;
 - ii) Hydraulic cross-section showing vertical gradients;
 - iii) Flow nets, including the vertical and horizontal components of flow and the interconnection between water-bearing strata; and
 - iv) Any temporal changes in hydraulic gradients and flow directions due, for example, to seasonal or man-made influences.
- h. A description of man-made influences that may affect the hydrogeology of the site, identifying:
- i) Active and inactive water-supply and production wells with appropriate pumping schedules; and
 - ii) Man-made structures such as pipelines, french drains, ditches, unlined and lined ponds, lagoons, septic tanks, NPDES permitted outfalls, retention areas and utility lines.
- i. The report shall document the methods and procedures used to gather the hydrogeologic data. This may include but is not limited to:
- i) The drilling and soil sampling methods used in characterizing the soil and hydrogeologic characteristics of the site or facility (including all boring logs and raw data);
 - ii) The analytical procedures and methods used to characterize the soil and rock materials obtained from the borings and/or test pits;
 - iii) The methods, equipment and procedures used to define the uppermost aquifer system and all significant zones of saturation above the uppermost aquifer system including:

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- 1) Well and piezometer location, depth, construction and installation specifications (including diagrams);
 - 2) Water level measurements and procedures;
 - 3) Ground water seepage observations during drilling; and
 - 4) Pumping tests and slug tests (including type, description and rationale for its use, raw data and method of interpreting the results).
- iv) A description, rationale and raw data of indirect methods such as soil survey, geophysical and modeling. (These methods can be used to infer ground water characteristics and support or guide direct methods. However, no site RCRA facility investigation can be based strictly on these methods.)
3. Surface Water and Sediment

The Respondent shall conduct a program to characterize the surface water bodies in the vicinity of the facility or site. Such characterization shall include, but not be limited to, the following activities and information:

- a. Description of the temporal and permanent surface water bodies including:
 - i) For lakes and estuaries: location, elevation, surface area, inflow, outflow, depth, temperature stratification, and volume;
 - ii) For impoundments: location, elevation, surface area, depth, volume, freeboard, and purpose of impoundment;

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- iii) For streams, ditches, drains, swamps, and channels: location, elevation, flow, velocity, depth, width, seasonal fluctuations, and flooding tendencies (i.e., 100 year event);
 - iv) A qualitative review of aquatic species that may represent a route of contaminant migration leading to potential exposures;
 - v) Drainage patterns; and
 - vi) Evapotranspiration;
- b. Description of the chemistry of the natural surface water and sediments. This includes determining the pH, total dissolved solids, total suspended solids, biological oxygen demand, alkalinity, conductivity, dissolved oxygen profiles, nutrients, chemical oxygen demand, total organic carbon, specific contaminant concentrations, etc.
- c. Description of sediment characteristics including:
- i) Deposition area;
 - ii) Thickness profile; and
 - iii) Physical and chemical parameters (e.g., grain size, density, organic carbon content, ion exchange capacity, pH, etc.).

4. Air

The Respondent shall provide information characterizing the climate in the vicinity of the site or facility. Such information shall include, but not be limited to:

- a. A description of the following parameters:
- i) Annual and monthly rainfall averages;
 - ii) Monthly temperature averages and extremes;
 - iii) Wind speed and direction;
 - iv) Relative humidity/dew point;

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- v) Atmospheric pressure;
 - vi) Evaporation data;
 - vii) Development of inversions; and
 - viii) Climate extremes that have been known to occur in the vicinity of the facility, including frequency of occurrence.
- b. A description of topographic and man-made features which affect air flow and emission patterns, including:
- i) Ridges, hills, or mountain areas;
 - ii) Canyons or valleys;
 - iii) Surface water bodies (e.g., rivers, lakes, bays, etc.);
 - iv) Wind breaks and forests; and
 - v) Buildings.

B. Source Characterization

The Respondent shall collect analytical data to completely characterize the wastes and the areas where wastes have been placed, collected, or removed, including: type; quantity; physical form; disposition (containment or nature of deposits); and facility or site characteristics affecting release (e.g., site or facility security and engineering barriers). This shall include quantification of the following specific characteristics, at each source area:

- 1. Unit/Disposal Area characteristics:
 - a. Location of unit/disposal area;
 - b. Type of unit/disposal area;
 - c. Design features;
 - d. Operating practices (past and present);
 - e. Period of operation;
 - f. Age of unit/disposal area;
 - g. General physical conditions; and
 - h. Method used to close the unit/disposal area.

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2. Waste characteristics:

- a. Type of waste placed in each unit;
 - i) Hazardous classification (e.g., flammable, reactive, corrosive, oxidizing or reducing agent);
 - ii) Quantity; and
 - iii) Chemical composition.
- b. Physical and chemical characteristics;
 - i) Physical form (solid, liquid, gas);
 - ii) Bulk or Containerized form;
 - iii) Physical description (e.g., powder, oily sludge);
 - iv) Temperature;
 - v) pH;
 - vi) General chemical class (e.g., acid, base, solvent);
 - vii) Molecular weight;
 - viii) Density;
 - ix) Boiling point;
 - x) Viscosity;
 - xi) Solubility in water;
 - xii) Cohesiveness of the waste;
 - xiii) Vapor pressure; and
 - xiv) Flash point; and
- c. Migration and dispersion characteristics of the waste;
 - i) Sorption;

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- ii) Biodegradability, bioconcentration, biotransformation;
- iii) Photodegradation rates;
- iv) Hydrolysis rates; and
- v) Chemical transformation.

The Respondent shall document the procedures used in making the above determinations.

C. Contamination Characterization

The respondent shall collect analytical data on groundwater, soils, surface water, sediment and subsurface gas contamination in the vicinity of the facility. This data shall be sufficient to define the extent, origin, direction, and rate of movement of contaminant plumes. Data shall include the location of sampling, media sampled, concentrations found and conditions during sampling, and the identity of the individuals performing the sampling and analysis. The Respondent shall address the following types of contamination at the site or facility.

1. Groundwater Contamination

The Respondent shall conduct a groundwater investigation to characterize any and all plumes of contamination at or from the site or facility. The investigation shall include a description and quantification of ground water quality in the uppermost aquifer and all significant zones of saturation or permeable zones that may act as pathways for contaminant migration. This investigation shall at a minimum provide the following information:

- a. A description of the horizontal and vertical extent of any immiscible or dissolved plumes originating from the facility;
- b. The horizontal and vertical directions of contamination movement;
- c. The velocities of contaminant movement;
- d. The horizontal and vertical concentration profiles of Appendix IX constituents in the plume(s);

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- e. An evaluation of factors influencing the plume movement; and
- f. An extrapolation of future contaminant movement.

The Respondent shall document the procedures to be used in making the above determinations (e.g., well design, well construction, geophysics, modeling, etc.)

2. Soil Contamination

The Respondent shall conduct an investigation to characterize the contamination of the soil and rock units in the vicinity of the contaminant release. The investigation shall include the following information:

- a. A description of the vertical and horizontal extent of contamination;
- b. A description of contaminant and soil chemical properties within the contaminant source area and plume. This includes contaminant solubility, speciation, adsorption, leachability, exchange capacity, biodegradability, hydrolysis, photolysis, oxidation, and other factors that might affect contaminant migration and transformation;
- c. Specific contaminant concentrations;
- d. The velocity and direction of contaminant movement; and
- e. An extrapolation of future contaminant movement.

The Respondent shall document the procedures used in making the above determinations.

3. Surface Water and Sediment Contamination

The Respondent shall conduct a surface water investigation to characterize contamination in surface water bodies resulting from the contaminant releases at the site or facility. The investigation shall include, but not be limited to, the following information:

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- a. A description of the horizontal and vertical extent of immiscible or dissolved plume(s) originating from the facility or site, and the extent of contamination in underlying sediments;
- b. The horizontal and vertical direction of contaminant movement;
- c. The contaminant velocities;
- d. An evaluation of the physical, biological and chemical factors influencing contaminant movement;
- e. An extrapolation of future contaminant movement; and
- f. A description of the chemistry of the contaminated surface waters and sediments. This includes determining the pH, total dissolved solids, and specific contaminant concentrations, etc.

Respondent shall document the procedures used in the making the above determinations.

4. Air Contamination

The Respondent shall conduct an investigation to characterize the particulate and gaseous contaminants released into the atmosphere. This investigation shall provide the following information:

- a. A description of the horizontal and vertical direction and velocity of contaminant movement;
- b. The rate and amount of releases; and
- c. The chemical and physical composition of the contaminant(s) released, including vertical and horizontal concentration profiles.

The Respondent shall document the procedures used in making the above determinations.

5. Subsurface Gas Contamination

Respondent shall conduct an investigation to characterize subsurface gases emitted from buried

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hazardous waste and hazardous constituents in the groundwater. This investigation shall provide the following information:

- a. A description of the horizontal and vertical extent of subsurface gas migration;
- b. The chemical composition of the gases being emitted; and
- c. The rate, amount, and density of the gases being emitted; and
- d. Horizontal and vertical concentration profiles of the subsurface gases emitted.

The Respondent shall document the procedures used in making the above determinations.

D. Potential Receptors Identification

The Respondent shall collect data describing the human populations and environmental systems that are susceptible to contaminant exposure from the facility. Chemical analysis of biological samples may be needed. Data on observable effects in ecosystems also may be needed. The following characteristics shall be identified:

1. Local uses and possible future uses of groundwater:
 - a. Type of use (e.g., drinking water source, municipal, residential, agricultural, domestic/non-potable, and industrial); and
 - b. Locations of groundwater users, including wells and discharge areas.
2. Local uses and possible future uses of surface water draining from the facility:
 - a. Domestic and municipal (e.g., potable, lawn/gardening watering);
 - b. Recreational (e.g., swimming, fishing);
 - c. Agricultural;
 - d. Industrial; and

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- e. Environmental (e.g., fish and wildlife propagation).
3. Human use or access to the facility and adjacent lands, including but not limited to:
 - a. Recreation;
 - b. Hunting;
 - c. Residential;
 - d. Commercial; and
 - e. Zoning; and
 - f. Relationship between population locations and prevailing wind direction.
4. A description of the biota in surface water bodies on, adjacent to, or affected by the facility.
5. A description of the ecology overlying and adjacent to the facility.
6. A demographic profile of the people who use or have access to the facility and adjacent land, including, but not limited to: age; sex; and sensitive subgroups.
7. A description of any endangered or threatened species near the facility.

TASK V: SITE INVESTIGATION ANALYSIS

The Respondent shall prepare a thorough analysis and summary of all site or facility investigations and their results. The objective of this task shall be to ensure that the investigation data are sufficient in quality (e.g., quality assurance procedures have been followed) and quantity to describe the nature and extent of contamination, potential threat to human health and/or the environment and to support the feasibility study.

The results and data from all site investigations shall be organized and presented logically so that the relationships between remedial investigations for each media are apparent.

- A. Data Analysis. The Respondent shall analyze all site or facility investigation data and develop a report of the type and extent of contamination at the site or facility.

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This analysis shall include all significant sources, pathways of contamination and a risk assessment. The risk assessment shall describe the extent of contamination (qualitative/quantitative) in relation to the background levels indicative for the area.

- B. Risk Assessment. The Respondent shall prepare a risk assessment which shall contain a discussion of and present the data required in the tasks outlined below:
1. Selection of Indicator Chemical. Respondent shall:
 - a. Develop an initial list of chemicals. Initial list of constituents should include all compounds indicated in the validated data packages.
 - b. Evaluate Sample Quantitation Limits.
 - i. Before eliminating chemicals because they were not detected, compare the Sample Quantitation Limits (SQL) to the appropriate toxicity reference value. If the SQL is greater than the corresponding standards, re-analysis of some of the samples using Special Analytical Services (SAS) may be required.
 - ii. If sample-specific problems cause an unusually high SQL and this limit cannot be brought down using SAS, eliminate this result.
 - iii. When only some samples test positive for chemical, but there is reason to believe that the chemical is present at some level below the SQL, use half the SWL as a proxy concentration.
 - c. Evaluate Qualified Data. Include data with qualifiers that indicate uncertainties in concentration. Reject data with qualifiers that indicate uncertainties in identity.
 - d. Perform Comparison with Blanks.
 - i. If blanks contain detectible levels of a common lab contaminant (e.g., acetone, 2-butanone, methylene chloride, toluene, phthalate esters, sample results should be

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considered positive only if the concentration exceeds 10 times the maximum amount detected in association blanks.

- ii. For compounds which are not common lab contaminants, sample results should be considered positive only if the concentration exceeds 5 times the maximum amount detected in associated blanks.

2. Estimate of Exposure Point Concentrations of Indicator Chemicals. Respondent shall:

- a. Combine site monitoring data and environmental modeling results to:
 - i. identify exposure pathways
 - ii. estimate exposure point concentrations, and
 - iii. compare these concentrations to requirements, standards and criteria.

3. Estimate of Chemical Intakes. Respondent shall:

- a. Provide estimates of chemical intakes from:
 - i. Air
 - ii. Ground water
 - iii. Surface water
 - iv. Other exposure pathways (soils, foodstuffs, recreation, etc.)
- b. Combine pathway-specific intakes to yield total oral and total inhalation routes.

4. Respondent shall evaluate critical toxicity values (i.e., numerical values describing a chemical toxicity) and review general toxicological information for the indicator chemicals. The U.S. EPA Integrated Risk Information System (IIRIS) Database should be used as the primary source for critical toxicity values.

5. Risk Characterization. Respondent shall provide a detailed characterization of the risk posed by releases of toxic chemicals from the site. The characterization shall include the following elements:

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- a. Noncarcinogenic effects using the Hazard Index approach, where

$$HI = E(1)/RL(1) + E(2)/RL(2) + \dots E(i)/RL(i)$$

E(i) = Exposure level (or intake) for the (i)th toxicant

RL(i) = Reference level (or intake) for the (i)th toxicant

- b. Upper bound limit on estimate of potential carcinogenic effects using the predicted risk approach, where

$$\text{Risk} = \text{CDI} \times \text{Carcinogenic Potency Factor}$$

CDI = Chronic Daily Intake

It is assumed that risks are additive and there is independence of action by the compounds involved. Therefore, the following equations are used:

$$\text{Carcinogenic risk for chemical } x = [\text{CDI (inhalation)} \times \text{PF (inhalation)}] + [\text{CDI (oral)} \times \text{PF (oral)}] + [\text{CDI (dermal)} \times \text{PF (dermal)}]$$

$$\text{Total carcinogenic risk} = (\text{carcinogenic risk for chemical 1} + \text{carcinogenic risk for chemical 2} + \dots + \text{carcinogenic risk for chemical (i)})$$

- c. Uncertainties. Respondent shall provide a discussion of the uncertainties and assumptions made in the assessment process.

C. Protection Standards [Applicable to RCRA Corrective Actions]

1. Ground Water Protection Standards

For regulated units the Respondent shall provide information for OEPA's selection/development of Groundwater Protection Standards for all of the Appendix VIII constituents found in the groundwater during the Remedial Investigation (Task IV).

- a. The Ground Water Protection Standards shall consist of:

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- i) For any constituents listed in Table 1 of 40 CFR 264.94, the respective value given in that table (MCL) if the background level of the constituent is below the value given in Table 1; or
 - ii) The background level of that constituent in the ground water; or
 - iii) A OEPA approved Alternate Concentration Limit (ACL).
- b. Information to support the Agency's subsequent selection of Alternate Concentration Limits (ACL's) shall be developed by the Respondent in accordance with U.S. EPA guidance. For any proposed ACL's, Respondent shall include a justification based upon the criteria set forth in 40 CFR 264.94(b) and OAC 3745-54-94.
 - c. Within thirty (30) days of receipt of any proposed ACL's, the OEPA shall notify the Respondent in writing of approval, disapproval or modifications.
 - d. Within 30 days of receipt of the OEPA's notification of disapproval of any proposed ACL, the Respondent shall amend and submit revisions to the OEPA.

2. Other Relevant Protection Standards

The Respondent shall identify all relevant and applicable standards for protection of human health and the environment (e.g., National Ambient Air Quality Standards, Ohio water quality standards etc.).

TASK VI -- LABORATORY STUDIES AND BENCH-SCALE STUDIES

Respondent shall conduct any necessary laboratory and bench scale treatability studies required to determine the applicability of remedial technologies, e.g., leachate treatment, groundwater treatment, compatibility of waste/leachate with liners, cover or other material proposed for use in the remedy. The Respondent shall analyze the technologies based on literature review, vendor contracts and past experience to determine the testing requirements.

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The Respondent shall develop a testing work plan identifying the type(s) and goal(s) of the study(ies), the level of effort needed and the procedures to be used for data management, validation and interpretation.

Upon completion of the testing, the Respondent shall evaluate the testing results to assess the technology or technologies with respect to the site-specific questions identified in the test work plan.

The Respondent shall prepare a report summarizing the testing program and its results, both positive and negative.

TASK VII -- REPORTS

A. Preliminary and Workplan

The Respondent shall submit to the OEPA reports on Tasks I and II when it submits the RCRA Facility Investigation Work plan (Task III).

B. Progress

Monthly Technical Progress Reports are required of the Respondent. For each on-going work assignment, Respondent shall submit progress reports with the following elements:

1. A description and estimate of the percentage of the RFI completed;
2. Summaries of all findings;
3. Summaries of all changes made in the RFI during the reporting period;
4. Summaries of all contacts with representatives of local community public interest groups or State government during the reporting period;
5. Summaries of all problems or portential problems encountered during the reporting period;
6. Actions being taken to rectify problems.
7. Changes in personnel.
8. Projected work for the next reporting period; and
9. Copies of daily reports, inspection reports, laboratory/monitoring data, etc.

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The monthly progress report will list target and actual completion dates for each activity including project completion and provide an explanation of any deviation from the milestones in the work plan schedule.

C. Draft and Final

Upon OEPA approval, Respondent shall prepare a RCRA Facility Investigation Report to present Tasks IV and V. The RCRA Facility Investigation Report shall be developed in draft form for OEPA review. The RCRA Facility Investigation Report shall be developed in final format incorporating comments received on the draft RCRA Facility Investigation Report. Task VI shall be submitted as a separate report when the final RCRA Facility Investigation Report is submitted.

Four copies of all reports, including the Task I report, Task II report, Task III workplan, Task VI report and both the Draft and Final RCRA Facility Investigation Reports (Task IV and V) shall be provided by the Respondent to OEPA. Two copies of each report shall be provided to the appropriate OEPA District Office and two copies to the OEPA Central Office.

Facility or Site Submission Summary

A summary of the information reporting requirements contained in the RCRA Facility Investigation Scope of Work is presented below:

<u>Facility Submission</u>	<u>Due Date</u>
Description of Current Conditions (Task I)	90 days within the effective date of the Consent Order
Pre-Investigation Evaluation of Corrective Measure Technologies (Task II)	90 days within the effective date of the Consent Order
Data Collection Quality Assurance Plan (Task III.B.)	90 days within the effective date of the Consent Order

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RFI Workplan
(Task III)

90 days within the
effective date of
Consent Order

Draft RFI Report
(Tasks IV and V)

In accordance with
the project
schedule approved
in the RFI Workplan

Final RFI Report
(Tasks IV and V)

60 days after
OEPA comment on
Draft RFI Report

Progress Reports on Tasks I through V

Monthly

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Attachment II

GENERIC SCOPE OF WORK FOR A CORRECTIVE MEASURES STUDY

STATE VERSION

PURPOSE

The purpose of the Corrective Measures Study (CMS) is to develop and evaluate the corrective action alternatives and to recommend the corrective measures to be taken at Franklin Steel Co., Inc.'s Blacklick, Ohio facility. Respondent shall furnish the personnel, materials, and services necessary to prepare the corrective measures study, except as otherwise specified.

SCOPE

The Corrective Measures Study consists of three (3) tasks:

TASK VIII: DEVELOPMENT AND SCREENING OF CORRECTIVE ACTION ALTERNATIVES

- A. Refine and document remedial action objectives.
- B. Develop general response actions.
- C. Identify areas or volumes of media.
- D. Identify, screen, and document corrective action technologies.
- E. Assemble and document alternatives.
- F. Refine alternatives.
- G. Conduct and document screening evaluation of each alternative.
- H. Alternatives development and screening deliverables.

TASK IX: DETAILED ANALYSIS OF CORRECTIVE ACTION ALTERNATIVES

- A. Apply eight criteria and document analysis.
- B. Compare alternatives against each other and document the comparison of alternatives.

TASK X: REPORTS

- A. Progress
- B. Draft
- C. Final

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TASK VIII - DEVELOPMENT AND SCREENING OF CORRECTIVE ACTION ALTERNATIVES

The development and screening of corrective action alternatives are performed to develop an appropriate range of waste management options that will be evaluated. This range of alternatives should include as appropriate, options in which treatment is used to reduce the toxicity, mobility, or volume of wastes, but varying in the types of treatment, the amount treated, and the manner in which long-term residuals or untreated wastes are managed; options involving containment with little or no treatment; options involving both treatment and containment; and a no-action alternative. The following activities will be performed by the respondent as a function of the development and screening of corrective action alternatives.

The respondent will begin to develop and evaluate a range of appropriate waste management options that at a minimum ensure protection of human health and the environment, concurrent with the RFI site characterization task.

A. Refine and document remedial action objectives

Respondent, in conjunction with the OEPA, shall establish site specific objectives for the corrective action needed to protect human health and the environment. These objectives shall be based on public health and environmental criteria, information gathered during the RFI, U.S. EPA and OEPA guidance documents, and the requirements of any applicable federal and state statutes and regulations. All corrective actions concerning groundwater releases must be consistent with, and at least as stringent as, those required by 40 CFR 264.100.

B. Develop general response actions

The respondent will develop general response actions for each medium of interest defining containment, treatment, excavation, pumping, or other actions, singly or in combination, to satisfy the corrective action objectives.

C. Identify areas or volumes of media

The respondent will identify areas or volumes of media to which general response actions may apply, taking into account requirements for protectiveness as identified in the corrective action objectives. The chemical and physical characterization of the site will also be taken into account.

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D. Identify, screen, and document corrective action technologies

The respondent will identify and evaluate technologies applicable to each general response action to eliminate those that cannot be implemented at the site. General response actions will be refined to specify corrective action technology types. Technology process options for each of the technology types will be identified either concurrent with the identification of technology types, or following the screening of the considered technology types. Process options will be evaluated on the basis of effectiveness, implementability, and cost factors to select and retain one or, if necessary, more representative processes for each technology type. The technology types and process options will be summarized for inclusion in a technical memorandum. The reasons for eliminating technologies must be specified.

E. Assemble and document alternatives

The respondent will assemble selected representative technologies into alternatives for each affected medium or operable unit. Together, all of the alternatives will represent a range of treatment and containment combinations that will address either the site or the operable unit as a whole. A summary of the assembled alternatives will be prepared by the respondent for inclusion in a technical memorandum. The reasons for eliminating alternatives during the preliminary screening process must be specified.

F. Refine alternatives

The respondent will refine the corrective action alternatives to identify contaminant volume addressed by the proposed process and sizing of critical unit operations as necessary. Sufficient information will be collected for an adequate comparison of alternatives. Corrective action objectives for each medium will also be refined as necessary to incorporate any new risk assessment information being generated from the RFI.

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G. Conduct and document screening evaluation of each alternative

The respondent may perform a final screening process based on short and long term aspects of effectiveness, implementability, and relative cost. Generally, this screening process is only necessary when there are many feasible alternatives available for detailed analysis. If necessary, the screening of alternatives will be conducted to assure that only the alternatives with the most favorable composite evaluation of all factors are retained for further analysis.

As appropriate, the screening will preserve the range of treatment and containment alternatives that was initially developed. The range of remaining alternatives will include options that use treatment technologies and permanent solutions to the maximum extent practicable. The respondent will prepare a technical memorandum summarizing the results and reasoning employed in screening, and arraying alternatives that remain after screening, and identifying the action-specific, applicable, state or federal environmental regulations.

H. Alternatives Development and Screening Deliverables

The respondent will prepare a technical memorandum summarizing the work performed in and the results of each task above, including an alternatives array summary. These will be modified by the respondent if required by OEPA's comments to assure identification of a complete and appropriate range of viable alternatives to be considered in the detailed analysis. This deliverable will document the methods, rationale, and results of the alternatives screening process.

TASK IX - DETAILED ANALYSIS OF CORRECTIVE ACTION ALTERNATIVES

The detailed analysis will be conducted by the respondent to provide OEPA with the information needed to allow for the selection of a site remedy.

The respondent will conduct a detailed analysis of alternatives which will consist of an analysis of each option against a set of eight evaluation criteria and a comparative analysis of all options using the same evaluation criteria as a basis for comparison.

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A. Apply eight criteria and document analysis

As provided by Section 121(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), the respondent will apply eight evaluation criteria to the assembled remedial alternatives to ensure that the selected remedial alternative will be protective of human health and the environment; will be in compliance with action-specific, applicable, state or federal environmental regulations; will be cost-effective; will utilize permanent solutions and alternative treatment technologies, or resource recovery technologies, to the maximum extent practicable; and will address the statutory preference for treatment as a principal element. The threshold, primary balancing, and modifying evaluation criteria are as follows: the threshold criteria include: (1) overall protection of human health and the environment; and (2) compliance with action-specific, applicable, state or federal environmental regulations; the primary balancing criteria include: (3) long-term effectiveness and permanence; (4) reduction of toxicity, mobility, or volume; (5) short-term effectiveness; (6) implementability; and (7) cost; and the modifying criteria includes: (8), community acceptance. (Note: criteria 8 is considered after the RFI/CMS report has been released to the general public.) For each alternative, the respondent should provide: (1) a description of the alternative that outlines the waste management strategy involved and identifies the key chemical-specific, action-specific, and location-specific, applicable, state or federal regulations associated with each alternative, and (2) a discussion of the individual criterion assessment. The evaluation of criteria 8, community acceptance, will be addressed by OEPA.

B. Compare alternatives against each other and document the comparison of alternatives

The respondent will perform a comparative analysis between the remedial alternatives. That is, each alternative will be compared against the others using the evaluation criteria as a basis of comparison. Identification and selection of the preferred alternative are reserved by OEPA. The respondent will prepare a technical memorandum summarizing the results of the comparative analysis.

TASK X - REPORTS

In addition to the technical memoranda describing the development and screening of alternatives and summarizing the results of the comparative analysis, the respondent will submit a draft CMS report to OEPA for review and approval. Copies of the draft report shall be provided by Respondent in accordance with the Consent Order. This report, as ultimately adopted or amended by OEPA, provides a basis for remedy selection by OEPA and

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documents the development and analysis of corrective action alternatives. Once OEPA's comments have been addressed by the respondent to OEPA's satisfaction, the final CMS report may be bound with the final RFI report.

A. Progress

Respondent shall, at a minimum provide OEPA with signed, monthly progress reports containing:

1. A description and estimate of the percentage of the CMS completed;
2. Summaries of all findings;
3. Summaries of all changes made in the CMS during the reporting period;
4. Summaries of all contacts with representatives of the local community, public interest groups, or state government during the report period;
5. Summaries of all problems or potential problems encountered during the reporting period;
6. Actions being taken to rectify problems;
7. Changes in personnel during the reporting period;
8. Projected work for the next reporting period; and
9. Copies of daily reports, inspection reports, laboratory/monitoring data, etc.

B. Draft

The CMS shall, at a minimum, include:

1. A description of the facility, including a site topographic map and preliminary layouts;
2. A summary of the corrective measures:
 - a. Description of the corrective measures;
 - b. Performance expectations;
 - c. Preliminary design criteria and rationale;
 - d. General operation and maintenance requirements; and
 - e. Long-term monitoring requirements;

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3. A summary of the RFI and impact on the selected corrective measures;
4. A summary of any necessary laboratory and bench-scale studies;
5. Design and implementation precaution:
 - a. Special technical problems;
 - b. Additional engineering data required;
 - c. Permits and regulatory requirements;
 - d. Access, easements, rights-of-way; and
 - e. Health and safety requirements.
6. Cost estimates and schedules:
 - a. Capital cost estimate;
 - b. Operation and maintenance cost estimate; and
 - c. Project schedule (design, construction, operation).

C. Final

Respondent shall finalize the CMS Report, incorporating comments received from OEPA on the Draft CMS Report.

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Carvin Date 6-23-92

REC'D

JUN 23 1992

REC'D DIRECTOR'S OFFICE

Facility Submission Summary

A summary of the information requirements contained in the CMS Scope of Work is presented below:

<u>Facility Submission</u>	<u>Due Date</u>
Alternatives Development and Screening and Alternatives Array Technical Memorandum (Task VIII.H.)	Concurrent with submission of Final RFI Report
Comparative Analysis Technical Memorandum (Task IX.B.)	Within 30 days of approval of the Alternatives Array
Draft CMS Report (Tasks VIII and IX)	Within 30 days of approval of the Comparative Analysis
Final CMS Report (Tasks VIII and IX)	60 days after OEPA Comment on the draft CMS Report
Progress Reports on Tasks VIII and IX	Monthly

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Cavine Date 6-23-92

WHD 2111

JUN 23 1992

AREA DIRECTOR'S OFFICE