



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200

DALLAS, TX 75202-2733

JAN 16 2018

CERTIFIED MAIL: RETURN RECEIPT REQUESTED: 7005 1820 0003 7458 3144

Mr. Lincoln Murphy, President
Lindon Manufacturing & Laboratory, LLC
7610 Wallisville Road
Houston, TX 77020

Dear Mr. Murphy:

Lindon's February 2016 response to the Environmental Protection Agency's ("EPA") January 2016 Information Request under Section 3007 of the Resource Conservation & Recovery Act ("RCRA") included an inventory of 36 five-gallon buckets containing "samples" and chemicals removed from the on-site laboratory and placed in the "Prep Shed" at your facility located at 7610 and 7614 Wallisville Road in Houston, Texas. After comparing Material Safety Data Sheets for the materials that were identified on the inventory, EPA identified numerous incompatible materials that may present a substantial risk of fire, explosion, and danger to human health.

EPA's letter of December 4, 2017, notified Lindon of the potential risk associated with the 36 buckets and requested that you arrange for the removal of the buckets and their contents from the facility and ensure that the materials were properly disposed of at a RCRA Treatment Storage and Disposal Facility. By letter of December 13, 2017, EPA granted Lindon's request for an extension to the timeline for removal of the materials until December 31, 2017. As of the date of this letter, Lindon has not removed and disposed of the buckets and their contents. Therefore, EPA is issuing the enclosed Unilateral Administrative Order ("Order") pursuant to Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6973.

The Order requires Lindon to properly assess, remove and dispose of the 36 buckets and their contents which include chemicals that are heat sensitive, shock sensitive, reactive with air or water, RCRA U-listed hazardous wastes, RCRA P-listed acute hazardous wastes, and RCRA hazardous wastes that are ignitable, corrosive and/or toxic within fifteen (15) days of the effective date of the Order. The Order requires that Lindon use transporters that have RCRA identification numbers and RCRA-permitted Treatment Storage and Disposal Facilities for proper treatment and/or disposal. Additional requirements are detailed in the Order.

Within twenty-four (24) hours after the receipt of this Order, Lindon shall notify EPA by telephone or email of intent to comply with the terms of this Order, and shall provide to EPA 'written confirmation' postmarked within forty-eight (48) hours after receipt of this Order, of its intention to comply. If such notice is not received, EPA will presume that Lindon does not intend to comply. Confirmation should be directed to Mark Potts, Chief, Waste Enforcement Branch at the above address, at 214-665-2723, and/or at potts.mark@epa.gov.

If you have any legal questions regarding the Order, please contact Tucker Henson at 214-665-8148. If you have any technical questions regarding the Order, please contact Joel Dougherty at 214-665-2281.

Sincerely,



Cheryl T. Seager
Director
Compliance Assurance and
Enforcement Division

Enclosure

cc: TCEQ Houston Regional Office
TCEQ James Gradney

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED

2018 JAN 17 PM 1:53

REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:

LINDON MANUFACTURING &
LABORATORY, LLC

HOUSTON, TEXAS

RESPONDENT

§ DOCKET NO. RCRA-06-2018-0907

§

§

§

§

§

§

§

Proceeding under Section 7003 of
the Resource Conservation and
Recovery Act, 42 U.S.C. § 6973

RCRA § 7003 UNILATERAL ADMINISTRATIVE ORDER

TABLE OF CONTENTS

I. Introduction.....	2
II. Jurisdiction.....	2
III. Parties Bound	2
IV. Definitions.....	3
V. Findings of Fact.....	4
VI. Conclusions of Law and Determinations	13
VII. Order.....	14
VIII. Work to be Performed	14
IX. Quality Assurance	16
X. Reporting, Recordkeeping and Access Requirements.....	16
XI. Document Certification.....	17
XII. Compliance with Other Laws	17
XIII. Noncompliance and Enforcement	17
XIV. Reservation of Rights.....	17
XV. Other Claims.....	18
XVI. Additional Work.....	18
XVII. Force Majeure	18
XVIII. Termination and Satisfaction.....	19
XIX. Severability	19
XX. Effective Date.....	19
XXI. Opportunity to Confer	19
XXII. Administrative Record.....	20

I. INTRODUCTION

1. This Unilateral Administrative Order ("Order") is issued to protect public health and the environment by the United States Environmental Protection Agency ("EPA"). This Order provides for the characterization and disposal of wastes by Lindon Manufacturing & Laboratory, LLC ("Respondent") in connection with property located at 7610 and 7614 Wallisville Road in Houston, Texas 77020 ("facility"). In filing this Order, EPA's objectives are to identify, remedy and prevent the potential endangerment to human health and/or the environment from hazardous constituents associated with past and/or present solid and/or hazardous waste activities at the facility. Respondent shall finance and perform the actions ordered in this Order based upon plans, standards and specifications set forth in this Order or developed by Respondent and approved by EPA pursuant to this Order.

2. EPA determined that Respondent has contributed and is contributing to the past or present handling, storage, treatment, transportation, and/or disposal of solid waste and hazardous waste and constituents of such wastes that may present an imminent and substantial endangerment to health or the environment. Respondent operates the facility, which is a Treatment, Storage and/or Disposal Facility ("TSDF"). The facility contains over 300 containers and at least 18 tanks that store materials that have not been properly characterized and have been stored at the facility beyond the timeframe allowed by EPA regulations. EPA inspected the facility and, based upon EPA's observations, incompatible wastes are stored in an improper and unsafe manner. Of concern to this Order, Respondent is currently storing 36 five-gallon buckets of miscellaneous hazardous wastes in a manner that presents an imminent and substantial endangerment to human health and the environment.

3. EPA notified the State of Texas agencies of this action pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, on July 24, 2017. EPA also notified local government entities.

II. JURISDICTION

4. This Order is issued to protect public health and/or the environment pursuant to Section 7003 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and further amended by the Hazardous and Solid Waste Amendments of 1984 (collectively, "RCRA"), 42 U.S.C. § 6973. Section 7003(a) of RCRA authorizes the Administrator of EPA to issue an Order whenever the Administrator receives evidence that the past or present handling, storage, treatment, transportation, or disposal of any solid waste or hazardous waste may present an imminent and substantial endangerment to health or the environment. The Administrator delegated the authority to issue this Order to the Regional Administrator, EPA Region 6 by EPA Delegation Nos. R6-8-22-A and R6-8-22-B, dated May 11, 1994, and No. R6-8-23, dated March 6, 1986, and to the Director of the Compliance and Assurance Enforcement Division, Region 6 ("Director") by Delegation Nos. R6-8-22-A, dated July 27, 1995, R6-8-22-B, dated August 3, 2001, and R6-8-23, dated July 27, 1995.

5. This Order is issued to Respondent, the past and/or present operator of the facility, past and/or present generator of solid waste and/or hazardous waste at the facility, and/or past and/or present handler of solid waste and/or hazardous waste at the facility.

III. PARTIES BOUND

6. This Order applies to and is binding upon Respondent and its directors, officers, employees, agents, trustees, receivers, successors, and assigns. Any change in ownership of the facility or corporate status of Respondent shall not in any way alter, diminish or otherwise affect the obligations of Respondent under this Order.

7. Respondent shall provide a copy of this Order to its project managers, consultants, contractors, subcontractors, and other representatives who have responsibility to conduct or monitor any portion of the work to be performed pursuant to this Order. Respondent shall provide this copy within seven days of the effective date of this Order or upon the date that services are retained. Respondent shall, in all contracts made with contractors, subcontractors, laboratories, and/or consultants in connection with this Order, require that party's compliance with the terms of this Order.

IV. DEFINITIONS

8. Unless otherwise expressly provided herein, terms used in this Order that are defined in RCRA shall have the meaning assigned to them in RCRA and/or its implementing regulations. The following terms shall have the definitions listed below:

"Acceptable" shall mean that the quality of submittals or completed work is sufficient in addressing the principal components of the required submittal or work so as to warrant EPA review in order to determine whether the submittal or work meets the terms and conditions of this Order, including all attachments, scopes of work, approved work plans and/or EPA's written comments, and relevant guidance documents. Approval by EPA of submittals or work, however, establishes that those submittals were prepared, or work was completed, in a manner acceptable to EPA.

"Additional Work" shall mean any activity or requirement that is not expressly covered by this Order or attachments but is determined by EPA to be necessary to fulfill the purposes of this Order, which are to protect human health and/or the environment considering facility-specific factors.

"Administrative Record" shall mean the record compiled and maintained by EPA in connection with the implementation of this Order. It will also include documents included at the Respondent's request.

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675.

"Comply" or "compliance" may be used interchangeably and shall mean completion of the work required by this Order, including submittal of documents of a quality acceptable to EPA, in accordance with work plans approved by EPA and in the manner and time specified in an approved work plan, this Order or any modification thereof. Respondent must meet both the quality (see the definition of "acceptable") and timeliness components of a particular requirement to be considered to be in compliance with the terms and conditions of this Order.

"Corrosive" shall mean displays the characteristic of corrosivity and would be a RCRA hazardous waste when disposed.

"Day" shall mean a calendar day unless expressly stated otherwise.

"Effective Date" shall mean fourteen days after receipt of the Order by Respondent.

"Facility" shall mean the property located at 7610 and 7614 Wallisville Road in Houston, Texas 77020.

"Hazardous constituents" shall mean those constituents listed in Appendix VIII to 40 C.F.R. Part 261.

"Ignitable" shall mean displays the characteristic of ignitability and would be a RCRA hazardous waste when disposed.

"Imminent and Substantial Endangerment" shall mean that the present conditions at the facility may present a risk or future risk of an actual, threatened, or potential harm to health or the environment.

"Order" shall mean this RCRA Section 7003 Unilateral Administrative Order, any amendments thereto, and any documents incorporated by reference into this Order.

"RCRA" shall mean the Resource Conservation and Recovery Act (also known as the Solid Waste Disposal Act), as amended, 42 U.S.C. § 6901-6992k.

"Reactive" shall mean displays the characteristic of reactivity and would be a RCRA hazardous waste when disposed.

"Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, seeping, leaching, dumping, placing, or disposing into the environment of any solid or hazardous waste or hazardous constituents.

"Submittal" shall mean any document that Respondent is required to send to EPA pursuant to this Order, including, but not limited to, all the work plans, reports, and progress reports.

"Toxic" shall mean displays the characteristic of toxicity and would be a RCRA hazardous waste when disposed.

"Violation(s)" shall mean any actions, omissions, failures, or refusals to act by Respondent that result in a failure to meet any term or condition of this Order.

"Work" shall mean any activity Respondent must perform to comply with the requirements of this Order.

V. FINDINGS OF FACT

A. Background

9. Respondent currently operates the facility, which manufactures oilfield service chemicals and is located at 7610 and 7614 Wallisville Road in Houston, Harris County, Texas.

10. From approximately 1965 to 2002, Nutro Products Corporation ("Nutro") operated the facility and manufactured oilfield service chemicals. On October 31, 2002, Nutro leased the facility to Respondent (Lindon Manufacturing and Laboratory, LLC). The bulk of the lease addressed environmental covenants provided by Nutro to Lindon.

11. Respondent was incorporated under the laws of the State of Texas on December 20, 2002. Mr. Lincoln Murphy is the President of Respondent and Mr. Alan Rein is the Vice President. Mr. Murphy was previously the plant manager for Nutro, and Mr. Rein was the laboratory manager for Nutro. Nutro's president, Mr. Donald Whitaker, retired when Respondent took control of the facility and is now deceased.

12. Respondent continues to operate the facility and manufactures oilfield service chemicals through on-site blending operations.

13. The facility includes three container storage areas: a warehouse referred to as the "Prep Shed," the "West Container Storage Area" on the western portion of the site, and the "Empty Container Storage Area" on the far western end of the site. The container storage areas contain over 300 drums and intermediate bulk containers (known as "totes"). Containers are also stored at other locations throughout the site. The facility also consists of approximately 18 large tanks, an abandoned laboratory, several other structures that were previously associated with administrative functions, and other areas where Respondent currently conducts business operations.

14. The facility is located less than 1,000 feet from a residential area and across the street from several businesses.

B. State and Local Enforcement History

15. In September 2000, the Texas Natural Resource Conservation, now known as the Texas Commission on Environmental Quality (collectively, "TCEQ") conducted an inspection at the facility. During this inspection, TCEQ documented that Nutro routinely received containers of unknown waste and unknown origin; failed to conduct hazardous waste determinations for contents of numerous containers stored on-site; failed to inspect containers of hazardous waste for leaks and deterioration; allowed spills and releases on-site, some of which migrated off-site; and failed to keep records of all hazardous and industrial solid wastes generated, stored, processed and stored on-site. TCEQ estimated that Nutro stored 335 containers of unknown wastes at the facility at the time of inspection. In response to this inspection, Nutro (via Alan Rein) stated in a letter to TCEQ dated May 23, 2001, that Nutro would identify, number and sample each container to determine its contents.

16. On May 14, 2003, TCEQ and Nutro entered into an Agreed Order, Docket No. 2000-1374-OHW-E, wherein Nutro agreed to properly characterize the contents of containers at the facility and properly dispose of solid and hazardous waste at the facility.

17. On May 19, 2003, TCEQ inspected the facility and noted that Nutro had failed to conduct hazardous waste determinations for containers at the facility. During this inspection, Mr. Murphy stated that the facility was operated by Respondent; however, Respondent disclaimed ownership of on-site wastes. On July 14, 2003, TCEQ issued a Notice of Violation to Nutro.

18. By letter to TCEQ dated December 1, 2003, Respondent stated that 179 drums had been found to contain saleable product and were removed from the storage area. Respondent stated that the profits from these products would be used to defray the costs of sampling and disposing of drums containing wastes.

19. Respondent submitted a report to TCEQ on September 13, 2006, regarding containers of waste at the facility. In the report, Respondent noted:

- a. 520 drums were located on-site, an increase from the 335 estimated during TCEQ's inspection in September of 2000. The increase was a result of Nutro transferring over 500 55-gallon drums to the facility in 2002 due to closure of other Nutro-operated sites.
 - b. Respondent stated that many of the drums were in poor condition, and Respondent transferred the contents from leaking drums to reconditioned empty drums.
 - c. 198 drums had readable labels and identifiable contents. Respondent sold 26 drums, used the contents of 159 drum to manufacture products and disposed of 13 drums found to be empty.
 - d. 322 drums did not have labels or the contents were not identifiable and remained in storage.
20. TCEQ conducted a site visit on September 20, 2006, and observed approximately 300 to 350 waste drums without labels stored at the facility. Most containers were rusted and in poor condition. TCEQ also observed 20 tanks on-site, which Lindon stated to contain only residual materials. TCEQ also documented contamination at the facility.
21. TCEQ conducted another inspection on January 13, 2010. TCEQ observed that tanks and containers of unknown material were in poor condition and leaking, resulting in releases, and that containers were improperly stored. TCEQ also observed numerous bottles and containers of "samples" and chemicals stored in the lab, which were alleged by Respondent to be left over from Nutro's activities.
22. By memorandum dated August 30, 2011, TCEQ closed its case against Nutro based upon internal statements that the facility "is now on the EPA list for clean-up."
23. On several occasions since 2000, the Houston Police Department ("HPD") and Houston Fire Department visited the facility. By letter from HPD to EPA and TCEQ dated April 16, 2015, HPD discussed its recent visit to the facility and noted that containers and pallets were in very poor condition and leaks and/or releases occurred throughout the storage areas and tank farm.

C. EPA's May 2015 Inspection

24. EPA representatives conducted an inspection the facility on May 18 through 21, 2015, and prepared an Inspection Report dated November 10, 2015, the contents of which are incorporated herein by reference.
25. During the investigation, EPA observed over 300 containers and 18 tanks at the facility used to store materials that have not been categorized. Most of the containers were in poor to extremely poor condition, and the all of the tanks were in very poor condition. EPA observed evidence of releases from containers and tanks. Respondent disclaimed ownership of the materials stored onsite; however, Respondent noted that it moved drums on several occasions when instructed to do so by the HPD, the Houston Fire Department, Harris County and/or TCEQ.
26. At the production area known as the "Blending Plant," EPA observed thirteen 275-gallon intermediate bulk containers (known as "totes") containing materials allegedly abandoned by Nutro. Some totes were in very poor condition and damaged, and the contents of the totes were not identified. Respondent stated that any labels that were on the totes would likely be inaccurate, because Respondent transfers materials from leaking totes into empty totes owned by Respondent.
27. At the building known as the "Prep Shed," EPA observed approximately 140 drums stacked two or three high on wooden pallets, approximately two-thirds of which were plastic poly drums and the remainder metal drums. Many metal drums were in poor condition, and EPA observed evidence of released materials from these drums. Most metal drums lacked legible labels, and EPA did not observe any

hazardous waste markings. Labels on two metal drums indicated that the contents would be RCRA characteristic (ignitable) hazardous waste when disposed. Labels on several full poly drums and other drums indicated that the contents would be RCRA characteristic (corrosive) hazardous wastes when disposed. EPA did not observe any alarms or emergency equipment in the Prep Shed. The contents of the vast majority of containers is unknown, and there is a strong potential that the contents of at least some of these containers are incompatible

28. In the Prep Shed, EPA also observed approximately 36 five-gallon buckets containing various samples and chemicals, and these materials were not labeled, dated or marked with the words "hazardous waste." Respondent stated that these materials were the "samples" and chemicals from the lab, as referenced in Section V.B. above, and that Respondent placed the "samples" and the five-gallon buckets in the Prep Shed. In response to an information request submitted by EPA to Respondent, Respondent provided an inventory of each container. Based upon EPA's review of this inventory along with the Material Safety Data Sheets ("MSDSs") for identified materials, many containers contain commercial chemical products that would be hazardous wastes when disposed. The inventory included materials that would be classified under RCRA as toxic, U-listed wastes, and acute hazardous, P-listed wastes. The inventory also included many materials that exhibit hazardous characteristics including ignitability, corrosivity, reactivity, and/or toxicity. Specific findings regarding the contents of these containers (referred to as "cans" by Respondent) include:

- a. Bucket 1: Contents include, among other chemicals, liquid styrene, 2-bromo, 2-nitro-propane, sodium thiosulfate, and potassium sulfide.
 - i. Styrene is ignitable and has a flash point of 88 degrees Fahrenheit. Potassium sulfide is incompatible with flammable materials.
 - ii. 2-bromo, 2-nitropane is incompatible with strong reducing agents such as sodium thiosulfate.
- b. Bucket 2: Contents include, among other chemicals, liquid n-hexane, liquid ethylbenzene and mercurous chloride. These materials have the characteristics of either ignitability or toxicity.
- c. Bucket 3: Contents include, among other chemicals, liquid acrylonitrile, liquid nitro-propane, potassium hydroxide, stannous chloride, potassium ferricyanide, potassium chromate, potassium dichromate, and mercuric oxide.
 - i. Acrylonitrile is ignitable with a flash point of 30 degrees Fahrenheit. Acrylonitrile is heat-sensitive and is capable of highly exothermic self-polymerization.
 - ii. Nitropropane is ignitable with a flash point of 82 degrees Fahrenheit. Nitropropane is a U-listed hazardous waste (U171) when disposed.
 - iii. Potassium hydroxide is corrosive but also hygroscopic, meaning it absorbs moisture from the air. It is incompatible with nitro-compounds and organic chemicals such as nitropropane and acrylonitrile. Acrylonitrile, in the presence of potassium hydroxide, can violently polymerize.
 - iv. Stannous chloride is reactive with potassium hydroxide, and contact between the two will generate heat and fumes.
 - v. Potassium chromate and potassium dichromate are toxic and confirmed human carcinogens.
 - vi. Mercuric oxide is toxic. Nitropropane is incompatible with metal oxides such as mercuric oxide.
 - vii. Potassium ferricyanide is an acute hazardous waste (P030) and unstable to heat.
- d. Bucket 4: Contents include, among other chemicals, liquid p-dioxane and magnesium perchlorate.

- i. Dioxane is ignitable with a flash point of 54 degrees Fahrenheit and a U-listed hazardous waste (U108). It is heat-sensitive and can form peroxides, which are unstable and can undergo violent and explosive decomposition.
 - ii. Magnesium perchlorate is ignitable and classified as an oxidizer, which is incompatible with combustible materials such as dioxane.
- e. Bucket 5: Contents include, among other chemicals, liquid methylene chloride, liquid molybdate reagent, sodium azide, potassium permanganate, potassium chromate, sodium perchlorate, sodium molybdate, and potassium iodide.
 - i. Methylene chloride is a U-listed hazardous waste (U080).
 - ii. Molybdate reagent contains sulfuric acid, has a pH of less than 1.0. and is corrosive.
 - iii. Sodium azide is a highly unstable, highly reactive chemical. It is shock sensitive/explosive and can form explosive compounds with metals. It is also a P-listed acutely hazardous waste (P105).
 - iv. Potassium permanganate is a powerful oxidizer and ignitable. Sodium perchlorate is also an oxidizer. It is incompatible with sulfuric acid, potassium iodide and organic materials such as methylene chloride.
 - v. Potassium chromate is toxic as well as a confirmed human carcinogen.
 - vi. Sodium perchlorate is an oxidizer and ignitable. It is also reactive with moisture and is hygroscopic (absorbs moisture from the air). It is incompatible with sulfuric acid, potassium iodide and organic materials such as methylene chloride.
 - vii. Sodium molybdate is reactive with oxidizers and incompatible with potassium permanganate and sodium perchlorate.
 - viii. Potassium iodide reacts violently with strong oxidizers, thus incompatible with potassium permanganate and sodium perchlorate. It is also incompatible with water.
- f. Bucket 6: Contents include, among other chemicals, strontium nitrate and sodium thiosulfate.
 - i. Strontium nitrate is an oxidizer and ignitable.
 - ii. Sodium thiosulfate is a reducer. Reducers and oxidizers (such as strontium nitrate) react violently with each other and are incompatible.
- g. Bucket 7: Contents include, among other chemicals, unknown solid(s) and liquid(s).
- h. Bucket 8: Contents include, among other chemicals, liquid benzene, liquid carbon tetrachloride, liquid methylene chloride, sodium methoxide, mercuric oxide, mercuric chloride, and mercuric iodide.
 - i. Benzene is a known human carcinogen and ignitable with a flash point of 12 degrees Fahrenheit. It is also toxic and a U-listed hazardous waste (U019).
 - ii. Carbon tetrachloride is toxic and a U-listed hazardous waste (U211).
 - iii. Methylene chloride is a U-listed hazardous waste (U080).
 - iv. Sodium methoxide is pyrophoric and can ignite spontaneously in moist air. It is ignitable with a flash point of 91 degrees Fahrenheit as well as violently reactive with water. It is incompatible with carbon tetrachloride, methylene chloride and benzene. In addition, it can attack some forms of plastic.
 - v. Mercuric oxide, mercuric chloride and mercuric iodide are toxic.
- i. Bucket 9: Contents include, among other chemicals, liquid 1-propanol, liquid perchloric acid, potassium chlorate, potassium nitrate, sodium hydrosulfate, and mercuric iodide.
 - i. Propanol is ignitable with a flash point of 59 degrees Fahrenheit.
 - ii. Perchloric acid can undergo spontaneous and explosive decomposition. It is reactive and ignitable, and it is incompatible with sodium hydrosulfide and propanol.

- iii. Potassium chlorate is ignitable and incompatible with propanol.
- iv. Potassium nitrate is an oxidizer and ignitable. It is incompatible with propanol, and a reaction between the two may cause ignition, violent combustion or explosion.
- v. Sodium hydrosulfide is incompatible with acids (such as perchloric acid) and will react vigorously with the release of highly toxic and flammable hydrogen sulfide gas.
- vi. Mercuric iodide is toxic.
- j. Bucket 10: Contents include, among other chemicals, potassium chromate, which is toxic and a confirmed human carcinogen.
- k. Bucket 11: Contents include, among other chemicals, liquid hexane, potassium chromate and potassium nitrate.
 - i. Hexane is ignitable with a flash point of 8.5 degrees Fahrenheit.
 - ii. Potassium chromate is toxic and a confirmed human carcinogen.
 - iii. Potassium nitrate is an oxidizer and ignitable. It is incompatible with hexane, and their reaction may cause ignition, violent combustion or explosion.
- l. Bucket 12: Contents include, among other chemicals, potassium cyanide, sodium nitrate, sodium bisulfite, tetrasodium pyrophosphate, and an "unknown wax."
 - i. Potassium cyanide is corrosive, highly toxic and moisture sensitive. It is not to be stored at temperatures above 75 degrees Fahrenheit (the Prep Shed has no temperature control and can easily exceed this temperature during summer months). It is reactive and incompatible with water, and it is capable of releasing deadly hydrogen cyanide gas. Potassium cyanide is reactive with nitrates (such as sodium nitrate) and may cause an explosion. It is a P-listed acute hazardous waste (P098).
 - ii. Sodium nitrate is an oxidizer and ignitable. It is incompatible with potassium cyanide, sodium bisulfite and tetrasodium pyrophosphate. Sodium nitrate can initiate combustion of organic materials such as wax.
- m. Bucket 13: Contents include, among other chemicals, sodium nitrate, sodium tripolyphosphate, phthalic anhydride, liquid propylene glycol, and salicylaldehyde. Sodium nitrate is an oxidizer and ignitable, and it is incompatible with the other listed chemicals.
- n. Bucket 14: Contents include, among other chemicals, zinc chromate, which is toxic and a human carcinogen.
- o. Bucket 15: Contents include, among other chemicals, sodium sulfide. Sodium sulfide is corrosive and reactive to the point it is spontaneously combustible. It is air sensitive and may react with water to produce toxic hydrogen sulfide gas.
- p. Bucket 16: Contents include, among other chemicals, maleic anhydride, a U-listed hazardous waste (U147).
- q. Bucket 17: Contents include four liquid and three solid chemicals listed on the inventory. These chemicals cannot be identified via the inventory, cannot be located on the internet and/or have properties that do not match the physical characteristics of the materials listed on the inventory.
- r. Bucket 18: Contents include, among other chemicals, sodium hydroxide, two unknown liquids and two unknown solids. Sodium hydroxide is corrosive that can react with water to generate sufficient heat to ignite adjacent combustible materials. It can ignite and react violently with many organic compounds.
- s. Bucket 19: Contents include "orange square sticks in an oil layer – probably phosphorus." White phosphorus is sold as "sticks" stored in water that are yellowish in color but turn darker with age as white phosphorus turns to red phosphorus. White phosphorus is

- ignitable, and it will spontaneously combust if exposed to air and may produce toxic fumes containing phosphine.
- t. Bucket 20: Contents include three different unknown liquids.
 - u. Bucket 21: Contents include three different unknown solids.
 - v. Bucket 22: Contents include, among other chemicals, sodium chromate. Sodium chromate is toxic and a human carcinogen.
 - w. Bucket 22A: Contents include, among other chemicals, liquid 2-octane and 2-chloro-ethanol. Both are ignitable with flash points of 56 and 135 degrees Fahrenheit, respectively.
 - x. Bucket 23: Contents include, among other chemicals, liquid hydrobromic acid, which is corrosive, and sodium thiosulfate. Sodium thiosulfate is a strong reducer and incompatible with acids such as hydrobromic acid.
 - y. Bucket 23A: Contents include, among other chemicals, liquid methyl amyl alcohol and isopentyl alcohol. Both are ignitable with flash points of 106 and 109 degrees Fahrenheit, respectively.
 - z. Bucket 24: Contents include, among other chemicals, liquid methyl amyl alcohol, which is ignitable with a flash point of 106 degrees Fahrenheit.
 - aa. Bucket 25: Contents were not included on the inventory.
 - bb. Bucket 26: Contents include, among other chemicals, liquid sodium hydroxide, ammonium chloride, acrylamide, and arsenic trioxide.
 - i. Sodium hydroxide is corrosive with a pH greater than 12.5 S.U.
 - ii. Ammonium chloride is reactive with sodium hydroxide.
 - iii. Acrylamide is reactive with sodium hydroxide and a U-listed hazardous waste (U007).
 - iv. Arsenic trioxide is toxic and is a P-listed acute hazardous waste (P012) as well as a human carcinogen.
 - cc. Bucket 27: Contents include, among other chemicals, liquid hydrofluoric acid and chromium trioxide.
 - i. Hydrofluoric acid is highly toxic and corrosive and is a U-listed hazardous waste (U134). It also attacks some forms of plastic.
 - ii. Chromium trioxide is toxic and a human carcinogen. It is incompatible with hydrofluoric acid and may react violently.
 - dd. Bucket 28: Contents include, among other chemicals, liquid acrylic acid, which is ignitable with a flash point of 122 degrees Fahrenheit. It is a U-listed hazardous waste (U008) and reactive with moisture.
 - ee. Bucket 29: Contents include, among other chemicals, barium chromate, which is toxic and a human carcinogen.
 - ff. Bucket 30: Contents include eight liquid and three solid chemicals listed on the inventory. These chemicals cannot be identified via the inventory, cannot be located on the internet and/or have properties that do not match the physical characteristics of the materials listed on the inventory.
 - gg. Bucket 31: Contents include four liquid and eleven solid chemicals listed on the inventory. These chemicals cannot be identified via the inventory, cannot be located on the internet and/or have properties that do not match the physical characteristics of the materials listed on the inventory.
 - hh. Bucket 32: Contents include, among other chemicals, liquid sulfuric acid, phosphonic acid, magnesium, and aluminum nitrate.
 - i. Sulfuric acid is highly corrosive and a human carcinogen.
 - ii. Phosphonic acid is corrosive with a pH of less than 1.0 S.U.

- iii. Magnesium is a reactive metal that is easily ignited. It is flammable in presence of acids and may ignite on contact with water; thus, it is incompatible with sulfuric and phosphonic acids.
- iv. Aluminum nitrate is incompatible with sulfuric and phosphonic acids.
- ii. Bucket 33: Contents include five different unknown liquids in multiple containers.
- jj. Bucket 34: Contents include six different unknown solids in multiple containers.
- kk. Bucket 35: Contents include sixteen liquid and five solid chemicals listed on the inventory. These chemicals cannot be identified via the inventory, cannot be located on the internet and/or have properties that do not match the physical characteristics of the materials listed on the inventory.
- ll. Bucket 36: Contents include 23 liquid and three solid chemicals listed on the inventory. These chemicals cannot be identified via the inventory, cannot be located on the internet and/or have properties that do not match the physical characteristics of the materials listed on the inventory.

29. At an open area known as the "West Container Storage Area," EPA observed approximately 155 metal and poly drums and 19 totes, and Respondent stated that Nutro left the containers in this area. Drums were stored two-high on rotting wood pallets. Many of the drums and totes were in very poor condition, and EPA observed evidence of released materials. Most container labels were missing or illegible/disintegrated, and Respondent indicated that it did not know the contents of any of these containers. A few containers were labeled "Lindon." There were no dates to indicate when the materials were placed into storage. There is no emergency alarm, equipment or contact information in this area. Specific findings regarding this area include:

- a. A blue poly drum was marked " H_3PO_4 " (phosphoric acid). Another blue poly drum was marked "PHOSPHORIC ACID." Phosphoric acid is a corrosive hazardous waste with a pH less than 2.0 S.U. A blue poly drum was marked with a corrosive hazmat placard (UN1824) and a label indicating caustic soda 50% solution. This material is corrosive with a pH of greater than 12.5 S.U. Phosphoric acid and caustic soda are incompatible and can react violently.
- b. A tote was marked "2626." "2626" is a paraffin inhibitor and a product of Respondent. It is ignitable with a flash point of 63 degrees Fahrenheit and contains a high percentage of sodium hydroxide, a highly corrosive material.
- c. A blue poly drum was labeled as dodecylbenzene sulfonic acid, which is both corrosive and toxic (benzene).
- d. A black poly drum was stenciled with the product designation "WSL-2021" and "W." This product is ignitable with a flash point of 85 degrees Fahrenheit.
- e. A blue poly drum was stenciled with "Brenntag Southwest-Longview TX 903-759-7151, LOT 102105, Batch 270787." EPA obtained the Certificate of Analysis connected to this stencil, which identified the material as 200 proof ethanol that was shipped to Respondent on October 21, 2005. The MSDS for 200 proof ethanol indicates that it is ignitable with a flash point of 55 degrees Fahrenheit.
- f. A blue poly drum was stenciled with Nutro product designations "B105" and "1167." "1167" corresponds to Nutro product "BT 200," which is ignitable with a flash point of 69 degrees Fahrenheit.
- g. A poly drum was marked with product designation "CI-4000," which is ignitable with a flash point of 120 degrees Fahrenheit.
- h. A poly drum was marked "L-6500." Lindon manufactures a product "#6500," which has a pH range from 11 to 14 S.U.; therefore, the contents of this drum are potentially corrosive.

- i. A gray drum was marked with a triangular Marine Pollutant label. According to Guidance on the Transportation of Marine Pollutants (issued jointly by the U.S. Coast Guard and the Pipeline and Hazardous Materials Safety Administration), a Marine Pollutant is a material that causes acute or chronic toxicity for fish, crustaceans, algae, and other aquatic plants.
- j. On a previous site visit on March 14, 2012, representatives from EPA and TCEQ's Superfund program noted "a green colored liquid was found on the cement pad [...] and] a strong odor was experienced in the immediate area of this liquid and a white cloud of unknown substance was escaping from under a white tarp covering the set of drums resting over the green liquid."

30. At a partially covered area known as the "Empty Container Storage Area," EPA observed several containers, some of which included Lindon markings (Respondent stated that it transferred materials from Nutro containers that had lost their integrity into Lindon containers). EPA observed that some containers were not completely empty, including two totes stenciled "UN #1824 & 50% Caustic Soda" and "10% Caustic Soda." These are both corrosive with a pH greater than 12.5 S.U. EPA also observed a tote with Lindon markings labeled "6820," a non-hazardous water clarifier / emulsion breaker.

31. EPA observed 18 metal tanks at the Facility. All metal tanks are in poor condition, and EPA observed evidence of releases from some tanks. No impermeable secondary containment was present. There was no alarm, fire suppression equipment, or spill control or decontamination equipment present. Respondent did not have documentation of tank inspections, operating logs, etc., Specific findings regarding the contents of these tanks include:

- a. Tanks 921 and 658 carried flammability hazard designations of "3," which indicates a liquid or solid that can be ignited under almost all ambient temperature conditions (e.g., gasoline).
- b. Previous TCEQ inspections indicated that tanks 910A, 910B, 911A, 911B, 921, 658, and 912 were used to store flammable materials including petroleum naphtha (910A and 910B), isopropanol (911A and 911B), methanol (921), xylene (658), and toluene (912). These materials are all ignitable with flash points below 140 degrees Fahrenheit. Further, methanol, xylene and toluene are U-listed hazardous wastes (U154, U239 and U222, respectively). All of these tanks are within 50 feet of the southern fence-line of the property.

D. EPA's August 2016 Inspection

32. EPA representatives conducted a sampling inspection at the facility on August 8 through 11, 2016, and prepared an inspection report dated July 7, 2017, the contents of which are incorporated herein by reference. During this inspection, EPA, along with companies contracted to assist EPA with inspection activities, gathered samples for hazardous constituent characterization from several metal drums and poly drums and from one tote. The contents of these containers was unknown at the time of sampling, and the containers were selected based upon which containers EPA believed likely to contain hazardous waste. The purpose of the sampling was to provide a representative view of the unidentified materials stored at the facility. EPA was able to analyze nine of ten samples. Specific findings regarding the samples include:

- a. Sample NL-D001-20160810-71, taken from a drum in the West Container Storage Area, exhibits the characteristics of corrosivity and of toxicity for chromium.
- b. Sample NL-D003-20160810-71, taken from a drum in the West Containers Storage Area, exhibits the characteristic of corrosivity.

- c. Sample NL-HC001-20160810-71, taken from a drum in the Prep Shed, exhibits the characteristics of ignitability and of toxicity for benzene.
- d. Sample NL-HC003-20160810-71, taken from a drum in the Prep Shed, exhibits the characteristics of ignitability and of toxicity for benzene.

33. At the Prep Shed, EPA observed that sixteen of the full poly drums mentioned in paragraph 27 had been removed. Respondent stated that those poly drums belonged to Respondent and were used to formulate products. Several containers were leaking and released contents on the Prep Shed and the driveway.

34. At the West Containers Storage Area, EPA observed that the floor was covered with a multi-colored liquid or sludge material that could be released into the environment during rainfall events. EPA also observed that several drums were “sweating.”

35. At the Empty Container Storage Area, EPA observed that some totes had been moved since the prior inspection. One of the totes labeled “Caustic Soda” contained liquid at the time of the previous inspection; however, this tote was empty at the time of the August 2016 inspection.

E. FLIR Videos

36. On August 3, 2017, an EPA representative took ten videos of tanks located at the facility utilizing a forward looking infrared (“FLIR”) camera. FLIR videos may be utilized to determine the level of material in tanks. Based upon EPA’s review of the FLIR videos, it appears that tanks 912, 921 and 658 are approximately 75% full. As noted in Paragraph 31 above, these tanks all previously contained ignitable materials.

VI. CONCLUSIONS OF LAW AND DETERMINATIONS

37. Based upon the foregoing Findings of Fact and the administrative record, EPA makes the following determinations:

- a. Respondent is a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).
- b. Respondent is the past and current operator of the “facility,” located at 7610 and 7614 Wallisville Road, Houston, Texas. The facility is a “facility” within the meaning of 40 C.F.R. § 260.10.
- c. Respondent is a past and/or present generator of solid waste and/or hazardous waste at the facility within the meaning of 40 C.F.R. § 260.10.
- d. Solid waste, as defined in Section 1004(27) of RCRA, 42 U.S.C. § 6903(27), is/was handled, stored and disposed of at the facility within the meaning of Section 1004 of RCRA, 42 C.F.R. § 6903, and 40 C.F.R. § 260.10.
- e. Hazardous waste, as defined in Section 1004(27) of RCRA, 42 U.S.C. § 6903(5), is/was handled, stored and disposed of at the facility within the meaning of Section 1004 of RCRA, 42 C.F.R. § 6903, and 40 C.F.R. § 260.10.
- f. As such, the facility is a treatment, storage and/or disposal facility within the meaning of RCRA, 42 U.S.C. §§ 6901–6992k, and its implementing regulations.

- g. Respondent has contributed and/or is contributing to handling, storage and/or disposal of solid waste and hazardous waste at the facility.
- h. The past and present handling, storage, and/or disposal of solid waste and hazardous waste at the facility presents an imminent and substantial endangerment to health and/or the environment, within the meaning of Section 7003(a) of RCRA, 42 U.S.C. § 6973(a).
- i. The endangerment at the facility, in whole or in part, is the result of the past or present handling, storage, treatment, transportation, and/or disposal of solid waste and/or hazardous waste.
- j. The actions required by the Order are necessary to protect human health and the environment. Specifically, the past and present handling, storage and/or disposal of solid waste and hazardous waste at the facility presents an imminent and substantial risk of fire or explosion at the facility or other release into the environment, endangering both the environment and health of nearby residents.

VII. ORDER

38. Based upon the administrative record for the facility and the Findings of Fact and Conclusions of Law and Determinations set forth above, EPA hereby orders Respondent to:

- a. Comply with the provisions of this Order, including, but not limited to, Section VIII (Work to be Performed), all appendices to this Order and all documents incorporated into this Order by reference; and
- b. Finance and perform the work ordered in accordance with this Order as well as plans, standards, specifications, and schedules set forth in this Order or developed by Respondent and approved by EPA pursuant to this Order.

VIII. WORK TO BE PERFORMED

A. Laboratory Chemicals

39. Within 15 days of the effective date of this Order, Respondent shall open all five-gallon plastic buckets (referenced in paragraph 28) containing laboratory chemicals and remove chemicals that are heat sensitive, shock sensitive, reactive with air or water, RCRA U-listed hazardous wastes, RCRA P-listed acute hazardous wastes, and RCRA hazardous wastes that are ignitable, corrosive and/or toxic. Respondent shall ensure that all proper safety measures and precautions are taken when handling and storing these laboratory chemicals.

40. Within 15 days of the effective date of this Order, Respondent shall conduct hazardous waste determinations on all unidentified materials from the five-gallon buckets referenced in paragraph 28. Respondent may, in lieu of conducting hazardous waste determinations, dispose of these unidentified materials as hazardous waste in accordance with Paragraph 41.

41. Within 15 days of the effective date of this Order, Respondent shall arrange for appropriate transportation of all laboratory chemicals described in paragraphs 39 and 40 and that are classified as and/or determined to be hazardous waste to a RCRA-permitted Treatment, Storage and Disposal Facility ("TSDF")

for proper treatment and/or disposal. Respondent shall ensure all laboratory chemicals described in paragraphs 39 and 40 and that are classified as and/or determined to be hazardous waste are removed from the facility and transported to the TSDF within 15 days of the effective date of this Order.

B. Methodology for Conducting Hazardous Waste Determinations

42. Respondent shall conduct hazardous waste determinations using approved sampling and analytical methods as prescribed by 40 C.F.R. Parts 261, 262, 265, and 268.

43. Respondent shall ensure that laboratories utilized by Respondent for analyses under this Order perform all analyses according to the latest approved edition of "Test Methods for Evaluating Solid Waste (SW-846)" or other methods approved by EPA.

44. Within thirty days of Respondent's receipt of data from sampling, testing or other data generated, Respondent shall submit to EPA the results of all sampling and/or tests or other data generated by, or on behalf of, Respondent pursuant to the requirements of this Order.

C. Additional Requirements

45. Respondent shall ship all hazardous wastes to a RCRA-permitted TSDF. Respondent shall use transporters that have a current RCRA identification number.

46. Within 30 days of removal of any hazardous waste from the facility, Respondent shall prepare and submit to EPA an inventory of all hazardous waste shipped off-site. The inventory shall include the name, address and EPA RCRA Identification Number for each Transporter and each RCRA-permitted TSDF used, the amount of material shipped, and the final disposition of the material. Respondent shall provide EPA with copies of all manifests at the time Respondent submits the inventory to EPA.

47. Within 45 days of completion of all requirements of this Order, Respondent shall submit a written report to EPA and provide documentation that verifies Respondent's compliance with the requirements of this Order.

48. Reports, correspondence, notices, or other submittals shall be submitted via electronic mail or shall be delivered to the address below. All correspondence shall include a reference to the case caption "EPA Docket No. RCRA-06-2018-0907." Respondent shall send all submittals to:

Joel Dougherty (6EN-H1)
U.S. EPA, Region 6
Waste Enforcement Branch
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202

(214) 665-2281
Dougherty.Joel@epa.gov

IX. QUALITY ASSURANCE

49. Respondent shall ensure that all laboratories it uses for analyses participate in the National Environmental Laboratory Accreditation Program and that both media and analytical methods comply with the accreditation standards. Respondent shall, upon EPA's request, make arrangements for EPA to conduct a performance and quality assurance / quality control ("QA/QC") audit of the laboratories chosen by Respondent.

X. REPORTING, RECORDKEEPING AND ACCESS REQUIREMENTS

50. Respondent shall provide EPA with access, at all reasonable times, to all records and documentation related to this Order or the facility. Respondent shall preserve all documents and information relating in any way to this Order, or relating to solid waste or hazardous waste at the facility, for ten years following completion of the work under this Order. At the end of this ten-year period but at least sixty days before any document or information is destroyed, Respondent shall notify EPA in writing that such documents and information are pending destruction and available to EPA for inspection. At any time before the expiration of the ten-year period or destruction of the documents, Respondent shall provide the originals or copies of any documents or information upon written request by EPA.

51. Respondent may assert a business confidentiality claim pursuant to 40 C.F.R. § 2.203(b) with respect to part or all of any information submitted to EPA pursuant to this Order, provided that such claim is allowed by Federal law. Analytical and other data gathered or produced pursuant to this Order shall not be claimed as confidential. EPA shall only disclose information covered by a business confidentiality claim to the extent permitted by, and by means of the procedures set forth at 40 C.F.R. Part 2, Subpart B. If no confidentiality claims accompany documents or information when such documents or information is received by EPA, EPA may make such documents or information available to the public without further notice to Respondent.

52. Respondent shall provide employees, contractors, agents, consultants, designees, and representatives of EPA with access to the facility. Such access shall be provided for the purpose of ensuring compliance with RCRA and/or this Order, including but not limited to performing, observing or overseeing any work performed under this order, or exercising any right granted to EPA by any provision of this Order. Access shall include, but is not limited to:

- a. Interviewing facility personnel and contractors;
- b. Inspecting any documents or information related to the facility;
- c. Reviewing the progress of Respondent in carrying out the requirements of this Order;
- d. Conducting any such tests or analyses EPA deems necessary;
- e. Using a camera, video recorder, sound recorder, or any other documentary equipment; and
- f. Verifying reports and data submitted to EPA by Respondent.

53. Where activities under this Order are to be performed in areas owned by or in possession of someone other than Respondent, Respondent shall use its best efforts to obtain all necessary access agreements. Failure of Respondent to undertake best efforts in obtaining access shall be a violation of this Order. If Respondent is unable to obtain access, EPA may assist Respondent in gaining access or act unilaterally, using such means EPA deems appropriate.

XI. DOCUMENT CERTIFICATION

54. Any report or other documents submitted to EPA by Respondent pursuant to this Order that make recommendations as to whether or not further actions are necessary or makes any representation concerning Respondent's compliance or non-compliance with any requirement of this Order shall be certified by a corporate officer of Respondent. A corporate officer means a president, vice-president, secretary, treasurer, or any other person who performs similar policy or decision-making functions.

55. The certification required above shall be in the following form:

"I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. I certify that the information contained in or accompanying this submittal is, to the best of my knowledge and belief, true, accurate and complete. I certify that this submittal and all attachments were prepared in compliance with the RCRA Section 7003 Unilateral Administrative Order issued to Lindon Manufacturing & Laboratory, LLC, Docket No. RCRA-06-2018-0907. I am aware that there are significant penalties for submitting false information, including the possibility of a fine and/or imprisonment for knowing violations."

Signature: _____

Name: _____

Title: _____

Date: _____

XII. COMPLIANCE WITH OTHER LAWS

56. Compliance with the terms and conditions of this Order does not relieve Respondent of its obligation to comply with all applicable federal, state or local laws or regulations. Respondent shall perform all actions required pursuant to this Order in accordance with all applicable local, state and federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations in a timely manner so as to not delay the work required by this Order.

XIII. NONCOMPLIANCE AND ENFORCEMENT

57. The violation of any provision of this Order may subject Respondent to the imposition of civil penalties as provided in Section 7003(b) of RCRA, 42 U.S.C. § 6973(b). If Respondent violates this Order or any portion thereof, EPA may carry out the required actions pursuant to applicable authorities and/or seek enforcement of this Order.

XIV. RESERVATION OF RIGHTS

58. Nothing herein shall limit the power and authority of EPA or the United States to take, direct or order any and all actions necessary to protect public health or welfare or the environment, or to prevent, abate or minimize an actual or threatened release, discharge or disposal of any solid waste, hazardous waste, hazardous substances, pollutants, or contaminants on, at or from the facility, including but not limited to the right to bring enforcement actions under RCRA, CERCLA and/or any other applicable legal statutes or regulations. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary to

enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondent in the future to perform additional activities pursuant to RCRA, CERCLA or any other applicable law. EPA reserves the right to bring an action against Respondent for the recovery of any response costs, including, but not limited to oversight costs and past costs not reimbursed by Respondent, incurred by the United States related to this Order or the facility. This Order shall not be construed as a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, claims, and/or authorities, civil or criminal, that EPA has under RCRA, CERCLA or any other statutory, regulatory or common law authority of the United States. This Order shall not be construed to address or otherwise excuse violations at the facility referenced in this Order but not addressed in Section VIII (Work to be Performed) of this Order, and EPA may address any and all violations referenced in this Order through subsequent administrative and/or judicial enforcement actions.

59. This Order is not intended to be, nor shall it be construed to be, a permit. EPA's approval of any work plan does not constitute a warranty or representation that the work plan will achieve the required actions or performance standards. Compliance with the terms of this Order shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, state or federal laws and regulations.

XV. OTHER CLAIMS

60. By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. The United States or EPA shall not be deemed a party to any contract entered into by Respondents or its directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order. In addition, nothing in this Order shall constitute a satisfaction of or release from any claim or cause of action against Respondent or any person not a party to this Order, for any liability such person may have under RCRA, CERCLA or other applicable statutes, or common law, including but not limited to, any claims of the United States for costs, damages and interest under RCRA, CERCLA or any other applicable law.

XVI. ADDITIONAL WORK

61. EPA may determine or Respondent may propose that certain tasks are necessary in addition to or in lieu of the tasks included in this Order when such additional work is necessary to meet the objectives of this Order. EPA may determine that Respondent shall perform additional work and EPA will specify, in writing, the basis for its determination that the additional work is necessary. Within five days after receipt of EPA's determination, Respondent shall have the opportunity to meet or confer with EPA to discuss the additional work. Within ten days of Respondent's receipt of EPA's determination, Respondent shall submit to EPA for approval a work plan for the additional work. Upon approval of the work plan, Respondent shall implement the work plan in accordance with the schedule and provisions contained therein. The work plan for any additional work shall be incorporated by reference into this Order. Nothing in this paragraph shall be construed to allow any process permitting an extension of the deadlines in Section VIII.A. (Work to be Performed—Laboratory Chemicals).

XVII. FORCE MAJEURE

62. Respondent shall perform all requirements under this Order within the time limits established under this Order, unless the performance is delayed by force majeure. For purposes of this Order, a force majeure is defined as any event arising from causes beyond the control of Respondent, or any entity controlled by Respondent or Respondent's contractors, which delays or prevents performance of any obligation under this Order despite Respondent's best efforts to fulfill the obligation. The requirement that Respondent

exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (1) as it is occurring, and (2) following the potential force majeure event, such that the delay is minimized to the greatest extent possible. Force majeure does not include financial inability to complete the work, increased cost of performance, changes in Respondent's business or economic circumstances, or inability to attain cleanup standards.

63. If any event occurs or has occurred that may delay the performance of any obligation under this Order, whether or not caused by a force majeure event, Respondent shall notify the EPA Project Manager via electronic mail within 48 hours of when Respondent knew or should have known that the event might cause a delay. Such notice shall: (1) identify the event causing the delay, or anticipated to cause delay, and the anticipated duration of the delay; (2) provide Respondent's rationale for attributing such delay to a force majeure event; (3) state the measures taken or to be taken to prevent or minimize the delay; (4) estimate the timetable for implementation of those measures; and (5) state whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health or the environment. Respondent shall undertake best efforts to avoid and minimize the delay. Failure to comply with the notice provision of this paragraph and/or to undertake best efforts to avoid and minimize the delay shall waive any claim of force majeure by Respondent. Respondent shall be deemed to have notice of any circumstances that its contractors had or should have had notice.

64. If EPA determines that a delay in performance or anticipated delay in fulfilling a requirement of this Order is or was attributable to force majeure, the time period for performance of that requirement will be extended as deemed necessary by EPA. If EPA determines that the delay or anticipated delay has been or will be caused by force majeure, EPA will notify Respondent, in writing, of the length of the extension, if any, for performance of the obligations affected by the force majeure. Any extensions shall not alter Respondent's obligation to perform or complete other tasks required by this Order that are not directly affected by the force majeure.

XVIII. TERMINATION AND SATISFACTION

65. The provisions of this Order shall be deemed terminated and satisfied by Respondent upon written notice from EPA that Respondent has demonstrated that all of the terms of this Order, including any additional work as may be performed pursuant to Section XVI (Additional Work), have been addressed to the satisfaction of EPA. Termination of this Order shall not terminate Respondent's obligation to comply with Section XI (Reporting, Recordkeeping and Access Requirements).

XIX. SEVERABILITY

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

XX. EFFECTIVE DATE

67. This Order shall become effective fourteen days after receipt of this Order by Respondent.

XXI. OPPORTUNITY TO CONFER

68. Respondent has the opportunity to confer with and/or submit additional information to EPA concerning the validity of this Order, including the basis for the Order, the terms of the Order, and the applicability of this Order to Respondent. Within five days after receipt of this Order, Respondent may request a conference regarding this Order. If Respondent does not request a conference within five days of receipt of the Order, Respondent shall be deemed to have waived the opportunity to confer. If Respondent desires a conference, Respondent shall make the request in writing to Joel Dougherty at the email address listed in Section VIII.

69. If Respondent requests a conference, it shall occur at EPA's regional office at 1445 Ross Avenue, Dallas, Texas, prior to the effective date of this Order, unless the date for the effective date of the Order and conference is extended by mutual agreement of EPA and Respondent. The conference shall include appropriate EPA personnel, including representatives from the Compliance Assurance and Enforcement Division and the Office of Regional Counsel.

70. The conference is not an evidentiary hearing. It does not give Respondent a right to seek review of this Order. EPA will make no formal transcript of the conference. If a conference is held, Respondent may present any evidence, arguments or comments regarding this Order, its applicability, any factual determinations on which the Order is based, the appropriateness of any action that Respondent is ordered to take, or any other relevant and material issue. Respondent is responsible for reducing any oral evidence, arguments or comments to writing and submitting them to EPA within three days following the conference. Whether or not Respondent requests a conference, Respondent has the opportunity to provide EPA with written information concerning the validity and necessity of this Order and/or the applicability of this Order to Respondent. EPA will add to the administrative record any relevant and material information that Respondent provides, and EPA receives, prior to the effective date of this Order. Any information or documents provided under this section should be directed to Joel Dougherty at the email address and/or physical address listed in Section VIII.

71. If a conference is held or relevant and material information is submitted and EPA determines that any element of this Order warrants modification or revocation, EPA will modify or revoke the Order in writing and issue a copy to Respondent. Except as otherwise provided in this Order, no modification or revocation of this Order shall be effective unless and until it is issued in writing by EPA.

XXII. ADMINISTRATIVE RECORD

72. The administrative record supporting this Order is currently available for review at EPA Region 6 Offices and will be available online in the immediate future at <https://www.epa.gov/tx/compliance-assurance-and-enforcement-texas>.

IT IS SO ORDERED.

Date:

January 16, 2018

By:

Cheryl T. Seager
Cheryl T. Seager
Director

Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

I hereby certify that on the 17 day of January, 2018, the original and one copy of the foregoing RCRA Section 7003 Unilateral Administrative Order was filed with the Regional Hearing Clerk, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202, and that a true copy of the same was sent by Certified Mail, Return Receipt Requested to Respondent at: Lindon Manufacturing & Laboratory, LLC, 7610 Wallisville Road, Houston, Texas 77020.

CERTIFIED MAIL – RETURN RECEIPT REQUESTED: 7005 1820 0003 7458 3144

A handwritten signature in black ink, appearing to be "M. S.", is located in the center-right of the page.