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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO EASTERN DIVISION
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

IN THE MATTER OF:) Case No. 5:09MC016
)
Ohio Cast Products Site) JUDGE JAMES S. GWIN
2408 13th Street NE,)
Canton, Stark County, Ohio)
)
_____)

ADMINISTRATIVE WARRANT TO EFFECTUATE RESPONSE ACTIONS TO ELIMINATE AN IMMINENT AND SUBSTANTIAL THREAT OF ENDANGERMENT TO HUMAN HEALTH AND THE ENVIRONMENT

TO: BHARAT MATHUR, ACTING REGIONAL ADMINISTRATOR, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 5, AND ANY DULY DESIGNATED EMPLOYEES OR REPRESENTATIVES OF U.S. EPA.

Proper application having been made pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9601 et seq. (“CERCLA”) for an administrative warrant to effectuate response actions to abate an imminent and substantial endangerment to human health and the environment at and from the properties owned or formerly owned by Ohio Cast Products, Inc.. which are located and commonly known as 2408 and 2403 13th Street NE, Canton, Ohio (“the Site”), this Court finds that the United States has established reasonable grounds for issuance of an administrative warrant to authorize representatives of the United States Environmental Protection Agency (“U.S. EPA” or the “Agency”), including contractors and representatives authorized by U.S. EPA, to enter to perform

response actions as required and necessary pursuant to Sections 104(a) and (e) of CERCLA, 42 U.S.C. § 9604(a), (e). The materials supporting the United States' Application for Ex Parte Administrative Warrant to Effectuate Response Actions to Eliminate an Imminent and Substantial Endangerment to Human Health and the Environment ("Application") consist of the Declarations of U.S. EPA Environmental Protection Specialist Valerie Mullins; On-Scene Coordinator James Justice; Civil Investigator Joseph Malek; Associate Regional Counsel Thomas Williams, and all attachments thereto.

The supporting materials submitted to this Court establish that U.S. EPA has determined that a CERCLA time-critical response action is needed at the Site based on reasonable evidence that there may be a release or threat of release of one or more hazardous substances, pollutants or contaminants that present a threat or potential threat to human health or the environment. Hazardous substances include friable asbestos, polychlorinated biphenyls (PCBs), and RCRA ignitable or corrosive wastes. Hazardous substances may migrate to an adjacent waterway. A fire in the Spring of 2008 significantly exacerbated the potential for human exposure to hazardous substances at and from the Site.

The supporting materials further establish that at least until February of 2008, Ohio Cast Products, Inc., owned the properties located at 2408 13th Street NE and at 2403 13th Street NE, Canton, Ohio ("the Site"), but that Ohio Cast Products, Inc. was liquidated in February, 2008 as a result of bankruptcy proceeding that was commenced under Chapter 11 of the U.S. Bankruptcy Code and converted to Chapter 7. The property has been abandoned by the bankruptcy Trustee. U.S. EPA has requested access to the

Site from counsel for a holder of a mortgage interest, the bankruptcy Trustee, and from Ohio Cast Products, Inc.'s former principal shareholder and Chairman of its Board of Directors. As detailed in Section I of the U.S. EPA's Application, U.S. EPA has been unsuccessful in obtaining a signed Consent from any party with rights or potential rights to the Site.

U.S. EPA's Application explains the scope and nature of the Agency's planned response actions at the Site under CERCLA, currently estimated to take one year to perform. Response actions will include the following tasks:

- 1) Develop and implement a Site Health and Safety Plan;
- 2) Remove and dispose of asbestos-contaminated building debris;
- 3) Remove and dispose of PCB-contaminated soils, sand, transformers, capacitors and other PCB-contaminated surfaces;
- 4) Remove and dispose of all drums, totes, and other containers of hazardous materials, contaminants, or pollutants;
- 5) Transport and dispose of all hazardous material or contaminants at an EPA-approved disposal facility in accordance with U.S. EPA's Off-Site Rule (40 CFR 300.440);
- 6) Render any large storage tanks unusable at the Site; and,
- 7) Take any necessary response action to address any release or threatened release of a hazardous substance, pollutant, or contaminant that the U.S. EPA determines may pose an imminent and substantial endangerment to the public health or the environment.

In order to fully characterize the nature and extent of contamination, U.S. EPA may use various types of equipment, including a hand auger, geoprobe, and geophysical

equipment. It may be necessary or convenient to leave some of the equipment at the Site while the response actions are ongoing. It may also be necessary and desirable to take photographs of portions of the Site and of the performance of the response actions. All of these response actions are typical of actions taken by U.S. EPA under the authority of CERCLA.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to Section 104(a) and (e) of the CERCLA, U.S. EPA and its duly designated representatives, including contractors and representatives authorized by the U.S. EPA, are hereby entitled to and are hereby permitted to enter upon the premises and property at least formerly owned and operated by Ohio Cast Products, located at 2408 and 2403 13th Street NE, Canton, Ohio for the purposes of effectuating the response actions described above and in the Action Memorandum dated September 24, 2008, Exhibit 2 to the Declaration of James Justice, On-Scene Coordinator. As part of the response actions, employees of the United States Environmental Protection Agency, including contractors and representatives authorized by the U.S. EPA, are permitted to enter and to re-enter the Site in order to effectuate the response actions as the Agency deems necessary. The Agency is authorized to destroy any portions of buildings on the Site that are considered unsafe. The Agency is authorized to remove fixtures on the Site pursuant to this warrant as necessary to abate the release or threatened release of hazardous substances, pollutants and contaminants. If the Agency excavates areas of the Site or otherwise significantly alters the Site, the Agency shall re-grade the land and otherwise attempt to return the Site to its prior condition at the time immediately prior to effectuating the response actions, but shall not be required to replace any unsafe buildings destroyed or demolished.

The entry and effectuation of the response actions shall be conducted within reasonable limits and in a reasonable manner, shall commence on March _____, 2009, and shall continue for the number of days that are reasonably necessary for the U.S. EPA to complete the response process. Entry shall be completed within one year from the date that this warrant is issued.

A copy of this warrant shall be left at the Site at the time the response actions commence. A copy shall also be delivered to all persons from whom the Agency has sought consent for access.

The United States Marshal and/or USEPA Criminal Investigation Agents are hereby authorized and directed to assist representatives of the U.S. EPA in such manner as reasonably may be necessary and required to execute this Warrant and the provisions contained herein.

DATED THIS 11 DAY OF March, 2009.



UNITED STATES JUDGE