

OHIO E.P.A.

JUN 28 2012

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Robertshaw Controls Company
dba Invensys Controls
191 East North Avenue
Carol Stream, Illinois

Director's Final
Findings and Orders
For Site Investigation

Respondent

For the Site known as:

The Former Robertshaw Controls
Company, Inc. Facility
Grove City, Franklin County, Ohio

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

By J. A. Cassider Date: 6-28-12

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PREAMBLE

It is agreed to by the Parties hereto as follows:

I. JURISDICTION

1. These Director's Final Findings and Orders ("Orders") are issued to Robertshaw Controls Company (RCC) pursuant to the authority vested in the Director of Ohio EPA under Ohio Revised Code ("ORC") §§ 3734.13, 3734.20, 6111.03, and 3745.01.

II. PARTIES BOUND

2. These Orders shall apply to and be binding upon Respondent and its successors in interest liable under Ohio law.

3. No change in ownership or corporate status of the Respondent, including, but not limited to, any transfer of assets or real or personal property shall in any way alter Respondent's obligations under these Orders.

4. Respondent shall provide a copy of these Orders, as effective, to all contractors and consultants retained to conduct any portion of the Work performed pursuant to these Orders, within fourteen (14) days of the date of retention. Respondent shall ensure that all contractors and consultants retained to perform the Work pursuant to these Orders also comply with the applicable provisions of these Orders.

III. DEFINITIONS

5. Unless otherwise expressly provided herein, all terms used in these Orders or in any attachments shall have the same meaning as defined in ORC Chapters 3734 and 6111, CERCLA, and the rules promulgated thereunder. Whenever the terms listed below are used in these Orders or in any attachments, attached hereto and incorporated herein, the following definitions shall apply:

- a. "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq.
- b. "Contaminant" and "Contamination" means (1) any "hazardous waste" under ORC § 3734.01(J); (2) any "industrial waste" under ORC § 6111.01(C); or (3) any "other wastes" under ORC § 6111.01(D), including any release of one or more of the same.

- c. "Day" means a calendar day unless expressly stated to be a business day. "Business day" shall mean a day other than a Saturday, Sunday, or state holiday. In computing any period of time under these Orders, where the last day would fall on a Saturday, Sunday, or state holiday, the period shall run until the close of the next business day.
- d. "Facility" means the former Robertshaw Controls Company, Inc. manufacturing facility located at 3705 Marlane Drive, Grove City, Franklin County, Ohio. The Facility property encompassed the following Franklin County parcels: 040-011532; 040-012799; 040-004147; 040-010204; 040-013577; 040-011901; 040-010134; 040-014605; 040-014490; 040-013521; 040-014561; 040-010135; 040-011386; 040-010520; and 040-010133.
- e. "Interim Action" means those actions taken at the Site by Respondent, subject to Ohio EPA approval, to abate, eliminate or otherwise control any immediate threats to public health and safety and the environment that are attributable to releases from the Former Robertshaw Controls Company, Inc. and that may be identified during the site investigation.
- f. "Interim Action Work Plan or IA Work Plan" means any work plan, prepared by Respondent and approved by Ohio EPA, for an Interim Action.
- g. "NCP" means the National Oil and Hazardous Substances Pollution Contingency Plan, codified at 40 C.F.R. Part 300 (1990), as amended.
- h. "Ohio EPA" means the Ohio Environmental Protection Agency and its designated representatives.
- i. "Orders" means these Director's Final Findings and Orders and all attachments hereto.
- j. "Paragraph" means a portion of these Orders identified by an arabic numeral or an uppercase or lowercase letter.
- k. "Parties" means Respondent and the Ohio EPA.
- l. "Respondent" means Robertshaw Controls Company (RCC) dba Invensys Controls.
- m. "Response Costs" means all costs including, but not limited to, payroll costs, contractor costs, travel costs, direct costs, overhead costs, legal and enforcement related costs, oversight costs, laboratory costs, and the costs of

reviewing or developing plans, reports, and other items pursuant to these Orders, verifying the Work, or otherwise implementing or enforcing these Orders incurred in a manner not inconsistent with the National Contingency Plan, 40 CFR Part 300.

- n. "Section" means a portion of these Orders identified by a roman numeral.
- o. "Site" means the Facility where release or disposal of hazardous waste, industrial waste, other wastes, or other material has occurred that are attributable to releases from the Former Robertshaw Controls Company, Inc., including any other area where such hazardous wastes, industrial wastes, or other wastes have migrated or threatened to migrate.
- p. "Triad Approach" means a decision-making model designed to streamline site cleanup through use of systematic planning (including a detailed conceptual site model), dynamic work strategies, and real-time measurement technologies.
- q. "Triad Investigation" means the actions taken at the Site by Respondent in accordance with Attachment A to these Orders to conduct an initial site investigation using the Triad Approach. This term also refers to a report (Final Triad Investigation Report) that describes the results of the investigation.
- r. "Triad Investigation Work Plan" means the work plan included in these Orders as Attachment A. The work plan includes a conceptual site model, a strategic sampling plan (with quality assurance and quality control measures) prepared based on the Triad Approach, a health and safety plan ("HASP"), and a list of deliverables. The HASP included in the Triad Investigation Work Plan does not require Ohio EPA approval.
- s. "Work" means all activities Respondent is required to perform under the Performance of Work and Additional Work Sections of these Orders.

IV. FINDINGS

6. All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3734.13, 3734.20, 6111.03, and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact, including but not limited to Findings 6e, f, g, n, o, and p. The Director of Ohio EPA has determined the following findings:

- a. The Former Robertshaw Controls Company, Inc. facility is located in Grove City, Franklin County, Ohio, on approximately thirty-seven (37) acres of land that

encompassed all or a portion of the following Franklin County parcels: 040-011532; 040-012799; 040-004147; 040-010204; 040-013577; 040-011901; 040-010134; 040-014605; 040-014490; 040-013521; 040-014561; 040-010135; 040-011386; 040-010520; and 040-010133.

- b. The Facility property parcels are owned by the following commercial entities or individual: BGB Realty LLC; Gateway Capitol Holdings LLC; Gateway AGA LLC; The Blue Moon Meeting Center LLC; Flowers Real Estate Group LLC; Anchor Government Properties; Grand Gateway Properties LLC; Grand Aerie of Fraternal Order of Eagles; and James N. Lehman.
- c. The Facility property was originally purchased by Robertshaw-Fulton Controls Company in 1961. In 1963, the company name changed to Robertshaw Controls Company, Inc. After construction of the manufacturing facility, they began operations at the Facility in 1965. The company assembled major appliance controls, including thermostats for home ranges, refrigerators, and coffee pots.
- d. Siebe PLC of London, England purchased Robertshaw Controls Company, Inc., or the Former Robertshaw Controls Company, in 1986 but continued to operate the facility as Robertshaw Controls Company, Inc. until ceasing operations at the Facility in 1996. Siebe PLC and BTR PLC merged in 1999 to form Invensys PLC. One of the major businesses within Invensys PLC is Invensys Controls, which is home to the Robertshaw Industrial Products Division. Respondent Robertshaw Controls Company dba Invensys Controls, with its corporate headquarters at 191 East North Avenue in Carol Stream, Illinois, is the successor in interest to Robertshaw Controls Company, Inc.
- e. The Site is where hazardous waste, industrial waste, other wastes, or other material were released or disposed.
- f. The Former Robertshaw Controls Company conducted certain operations which may have resulted in disposal or release of one or more Contaminants or Contamination at the Site. Contaminants or Contamination were released or disposed of at the Site.
- g. The Former Robertshaw Controls Company was a conditionally exempt small quantity generator ("CESQG") of hazardous waste, Contaminants or Contamination at the Site. The hazardous waste EPA ID number was OHD018058685. The hazardous waste EPA ID number for this CESQG was deactivated on August 28, 2007. The Facility met Cessation of Regulated Operation Program requirements on October 20, 1997.

- h. The Former Robertshaw Controls Company held a National Pollutant Discharge Elimination System permit, 4IM00003, for discharges to Brown Run from the Site from 1986 through 1996.
- i. Ohio EPA's then-Division of Hazardous Waste Management received a citizen complaint on February 26, 2002, and referred it to the then-Division of Emergency and Remedial Response (now the Division of Environmental Response and Revitalization) ("DERR") (Emergency Response Incident #0203-25-0675). The complainant alleged specific chemicals were spilled at the Facility or illegally discharged into storm drains at the Facility, including the following: 1,1,1-trichloroethane ("1,1,1-TCA"); Freon; acetone; varnish; chloro phenyl; H 240 oil; DC 20 oil; anti boiling oil; epoxy resin; trifluorotrichloroethane; and phenolic cement.
- j. In 2010, Ohio EPA completed a State Site Assessment, conducting soil, ground water, and sediment sampling and analyses on significant portions of the Site.
- k. Laboratory analyses of soil samples collected from soil borings during the State Site Assessment indicated levels of arsenic (26 mg/Kg), cobalt (7.88 mg/Kg), manganese (543 mg/Kg), and tetrachloroethene aka perchloroethelene ("PCE") (0.684 mg/Kg). These levels were in excess of risk-based screening values established consistent with the Ohio EPA Technical Decision Compendium titled *Use of U.S. EPA's Regional Screening Levels as Screening Values in Human Health Risk Assessments* (August 2009).
- l. Laboratory analyses of sediment samples collected in Brown Run during the State Site Assessment indicated levels of beryllium (<1.25 mg/Kg), selenium (<5.0 mg/Kg; 4.3 mg/Kg), silver (<0.500 mg/Kg), phenanthrene (0.936 mg/Kg), anthracene (0.096 mg/Kg), fluoranthene (1.880 mg/Kg), pyrene (1.910 mg/Kg), benz(a)anthracene (0.533 mg/Kg), chrysene (0.830 mg/Kg), benzo(a)pyrene (0.655 mg/Kg), indeno(1,2,3-cd)pyrene (0.576 mg/Kg), dibenzo(a,h)anthracene (<0.250 mg/Kg; 0.0150 mg/Kg), and benzo(g,h,i)perylene (0.520 mg/Kg). These levels were in excess of the ecological screening levels identified in Ohio EPA's Ecological Risk Assessment Guidance Document (April 2008).
- m. Laboratory analyses of ground water samples collected from monitoring wells during the State Site Assessment indicated levels of arsenic (0.0125 mg/L), manganese (0.528 mg/L), selenium (0.0539 mg/L), thallium (<0.001 mg/L), 1,1-dichloroethene (0.0953 mg/L), 1,1-dichloroethane (0.0418 mg/L), cis-1,2-dichloroethene (0.0593 mg/L), 1,1,1-TCA (1.010 mg/L), trichloroethene (0.108 mg/L), and PCE (0.523 mg/L). These levels were in excess of risk-based screening values established consistent with the Ohio EPA Technical Decision

Compendium titled *Use of U.S. EPA's Regional Screening Levels as Screening Values in Human Health Risk Assessments* (August 2009).

- n. Arsenic, beryllium, cobalt, manganese, selenium, silver, thallium, phenanthrene, anthracene, fluoranthene, pyrene, benz(a)anthracene, chrysene, benzo(a)pyrene, indeno(1,2,3-cd)pyrene, dibenzo(a,h)anthracene, benzo(g,h,i)perylene, 1,1-dichloroethene, 1,1-dichloroethane, cis-1,2-dichloroethene, 1,1,1-TCA, TCE, and PCE, among other substances found including Freon® 113, methylene chloride, methyl tert-butyl ether ("MTBE"), 1,2-dichloroethane, toluene and total semi-volatile organic compounds ("SVOCs"), are "Contaminants" or "Contamination."
- o. F001 spent halogenated solvents - vapor degreaser sludge, F002 spent halogenated solvent - solvent sludge, F003 spent non-halogenated solvents, F005 spent non-halogenated solvents, D001 toluene, D004 methanol, U002 acetone, U154 methanol and U226 1,1,1-TCA were generated at the Site, and are "hazardous waste" as defined under ORC § 3734.01(J).
- p. Because of their quantity, concentration, physical or chemical characteristics, some contaminants of concern found at the Site may be "hazardous waste" as defined under ORC 3734.01(J), "industrial waste" as defined under ORC § 6111.01(C), or "other wastes" as defined under ORC § 6111.01(D).
- q. The ground and surface waters at the Site are "waters of the state" as defined in ORC § 6111.01(H).
- r. Ohio EPA has incurred Response Costs and continues to incur Response Costs associated with this Site.
- s. Respondent is a "person" as defined under ORC §§ 3734.01(G) and 6111.01(I).
- t. Conditions at the Site may constitute a substantial threat to public health or safety or may be causing or contributing or threatening to cause or contribute to air or water pollution or soil contamination as provided in ORC § 3734.20(B).
- u. The migration and threatened migration of Contaminants to soil, ground water, or surface water at or from the Site may constitute a discharge to "waters of the state" as the term is defined in ORC § 6111.01(H).
- v. The Work required pursuant to these Orders will identify those measures necessary to contribute to the prohibition or abatement of the discharge of Contaminants to waters of the state.

- w. In issuing these Orders, the Director has given consideration to, and based his determination on, evidence relating to technical feasibility and economic reasonableness of complying with these Orders, and to evidence relating to conditions calculated to result from compliance with these Orders, and their relation to the benefits to the people of the state to be derived from such compliance.
- x. It is Ohio EPA's position that actions to be taken pursuant to these Orders are reasonable and necessary to protect the public health or safety or the environment as provided in ORC § 3734.20.
- y. Upon completion of the Work required in these Orders, future investigations, feasibility studies and/or remedial activities may be necessary.

V. GENERAL PROVISIONS

7. Objectives of the Parties

The objectives of the Parties in entering into these Orders are to comply with federal and state law to protect public health and safety and the environment from the disposal, discharge, or release of Contaminants through performance of Work required under these Orders by Respondent to:

- a. Investigate and determine the nature and extent of releases of Contaminants at the Site, per the attached Triad Investigation Work Plan or as amended through mutual agreement by the Site Coordinators, and the attached Guidance List or as amended through mutual agreement by the Site Coordinators.
- b. Implement any additional work (*i.e.*, Interim Actions), as necessary and approved by Ohio EPA, to abate, eliminate or otherwise control immediate threats to public health and safety and the environment that are attributable to releases from the Former Robertshaw Controls Company, Inc.

8. Commitment of Respondent

Respondent agrees to perform the Work in accordance with these Orders including but not limited to the Triad Investigation Work Plan (Attachment A), the Triad Investigation Work Plan as amended with agreement by the Site Coordinators, and all relevant guidance documents (Attachment B), any Interim Action Work Plans approved by Ohio EPA, and all standards, specifications, and schedules as approved by Ohio EPA pursuant to these Orders. Respondent also agrees to reimburse Ohio EPA for all

Response Costs incurred in a manner not inconsistent with the National Contingency Plan, 40 CFR Part 300 and perform all other obligations of these Orders.

9. Compliance With Law

- a. All activities undertaken by Respondent pursuant to these Orders shall be performed in accordance with the requirements of all applicable federal, state and local laws and regulations, and in a manner consistent with the NCP.
- b. Ohio EPA expects that activities conducted pursuant to these Orders, if approved by Ohio EPA, would be considered necessary and consistent with the NCP.
- c. Where any portion of the Work requires a permit, license or other authorization from Ohio EPA or any other state, federal or local government agency, Respondent shall submit applications in a timely manner and take all other actions necessary to obtain such permit, license or other authorization. These Orders are not, and shall not be construed to be, a permit, license or other authorization issued pursuant to any statute or regulation.

VI. PERFORMANCE OF THE WORK BY RESPONDENT

10. Supervising Contractor

All Work performed pursuant to these Orders shall be under the direction and supervision of a contractor with expertise in hazardous waste site investigation and remediation. Prior to the initiation of the Work, Respondent shall notify Ohio EPA in writing of the name of the supervising contractor to be used in performing the Work under these Orders.

11. Triad Investigation Work Plan and Final Report

- a. *Implementation of the Triad Investigation Work Plan.* Within 30 days of the effective date of these Orders and subject to Section IX of these Orders, unless otherwise agreed to by the parties, Respondent shall initiate the Triad Investigation Work Plan, in accordance with any schedules included therein. The attached Triad Investigation Work Plan can be amended by the Site Coordinators or in conjunction with Section VII (Additional Work) of these Orders. Respondent shall submit all plans, reports, or other deliverables required under the Triad Investigation Work Plan, in accordance with any schedules therein, for Ohio EPA's review and approval.

- b. *Handling of any inconsistencies.* Should Respondent identify any inconsistency between any of the laws and regulations and guidance documents that they are required to follow by these Orders, Respondent shall notify Ohio EPA in writing of each inconsistency and the effect of the inconsistencies upon the Work to be performed. Respondent shall also recommend, along with a supportable rationale justifying each recommendation, the requirement Respondent believes should be followed. Respondent shall implement the affected Work as directed in writing by Ohio EPA.
- c. *Triad Investigation Final Report.* Upon completion of the Work required in the Triad Investigation Work Plan, Respondent shall submit a Triad Investigation Final Report summarizing the Work and data collected during the Triad Investigation, for review and approval by Ohio EPA.

VII. ADDITIONAL WORK

12. Ohio EPA or Respondent may determine that in addition to the tasks defined in the Triad Investigation Work Plan, additional Work may be necessary to accomplish the Objectives of the Parties as provided in the General Provisions Section of these Orders. Additional Work may also include, pursuant to ORC § 3734.20 or other applicable law, the implementation of an Interim Action to abate, eliminate or otherwise control immediate threats to public health or safety or the environment that are attributable to releases from the Former Robertshaw Controls Company, Inc. should such threats be identified during implementation of the Triad Investigation Work Plan.

13. Within thirty (30) days of receipt of written notice from Ohio EPA that additional Work is necessary, unless otherwise specified in writing by Ohio EPA, Respondent shall submit a proposed IA Work Plan, which contains (a) a work plan for the implementation of the additional Work, (b) a schedule for the performance of the additional Work, and (c) revisions to other schedules impacted by the additional Work, if any. If Respondent disputes the necessity of additional Work, Respondent shall initiate the procedures for dispute resolution set forth in the Dispute Resolution Section of these Orders within fourteen (14) days after receipt of Ohio EPA's notification of the need for additional Work. The IA Work Plan shall conform to the standards and requirements set forth in the list of relevant guidance documents (Attachment B). Upon approval of the IA Work Plan by Ohio EPA pursuant to the Review of Submissions Section of these Orders, Respondent shall implement the approved IA Work Plan in accordance with the schedules contained therein.

14. If Respondent determines that additional Work is necessary, Respondent shall submit a proposal to Ohio EPA to explain what the additional Work is, why the additional Work is necessary, and what impact, if any, the additional Work will have on

the Triad Investigation Work Plan and schedule. If Ohio EPA concurs with the request to perform additional Work, Respondent shall submit an IA Work Plan, as described above, for the performance of additional Work. The IA Work Plan shall conform to the standards and requirements set forth in the list of relevant guidance documents (Attachment B). Upon approval of the IA Work Plan by Ohio EPA pursuant to the Review of Submissions Section of these Orders, Respondent shall implement the approved IA Work Plan in accordance with the schedules contained therein. Additional Work does not include any activity performed in response to an emergency at the Site for which Respondent submits to Ohio EPA written notice of the performed activity.

VIII. SAMPLING AND DATA AVAILABILITY

15. Unless otherwise agreed to by the Site Coordinators, Respondent shall notify Ohio EPA not less than fifteen (15) days in advance of all sample collection activity. Upon request, Respondent shall allow split and/or duplicate samples to be taken by Ohio EPA or its designated contractor. Ohio EPA shall also have the right to take any additional samples it deems necessary. Upon request, Ohio EPA shall allow Respondent to take split and/or duplicate samples of any samples Ohio EPA takes as part of its oversight of Respondent's implementation of the Work.

16. Within fourteen (14) days of Respondent's receipt of a request by Ohio EPA, or as otherwise agreed to by the Parties, Respondent shall submit to Ohio EPA copies of the results of all sampling and/or test results, including raw data and original laboratory reports, generated by or on behalf of Respondent with respect to the Site and/or the implementation of these Orders. An electronic copy shall also be provided in a format that is a reviewable PDF by Ohio EPA and is indexed with a table of contents. Should Respondent subsequently discover an error in any report or raw data, Respondent shall promptly notify Ohio EPA of such discovery and provide the correct information.

IX. ACCESS

17. Ohio EPA and its contractors shall have access at all reasonable times to the Site and any other property to which access is required for the implementation of these Orders, to the extent access to the property is controlled by Respondent. Access under these Orders shall be for the purposes of conducting any activity related to these Orders including but not limited to the following:

- a. Monitoring the Work.
- b. Conducting sampling, including background monitoring wells.

- c. Inspecting and copying records, operating logs, contracts, and other documents related to the implementation of these Orders.
- d. Conducting investigations and tests related to the implementation of these Orders.
- e. Verifying any data and/or other information submitted to Ohio EPA.

18. To the extent that the Site or any other property to which access is required for the implementation of these Orders is owned or controlled by persons other than Respondent, Respondent shall use its best efforts to secure from such persons access for Respondent and Ohio EPA and its contractors as necessary to effectuate these Orders. Copies of each access agreement obtained by Respondent shall be provided to Ohio EPA upon execution of the access agreement. If any access required to implement these Orders is not obtained, Respondent shall promptly notify Ohio EPA in writing of the steps Respondent has taken to attempt to obtain access. Ohio EPA may, as it deems appropriate, assist Respondent in obtaining access.

19. Notwithstanding any provision of these Orders, the State of Ohio retains all of its access rights and authorities, including enforcement authorities related thereto, under any applicable statute or regulation including but not limited to ORC §§ 3734.20 and 6111.05.

X. DESIGNATED SITE COORDINATORS

20. Within fourteen (14) days of the effective date of these Orders, Respondent shall notify Ohio EPA, in writing, of the name, address and telephone number and e-mail address of its designated Site Coordinator and Alternate Site Coordinator. Ohio EPA shall timely identify to Respondent any Site Coordinator named by Ohio EPA with respect to the Work to be performed under these Orders.

21. As used in these Orders, the term "Site Coordinator" refers interchangeably to the Site Coordinator and the Alternate Site Coordinator designated for a named party. If any designated Site Coordinator is changed, the identity of the successor will be given to the other Party at least fourteen (14) days before the changes occur, unless impracticable, but in no event later than the actual day the change is made.

22. To the maximum extent practicable, except as specifically provided in these Orders, communications between Respondent and Ohio EPA concerning the implementation of these Orders shall be made by the Site Coordinators. Respondent's Site Coordinator shall be available at all reasonable times for communication with Ohio EPA regarding the implementation of these Orders for the duration of these Orders.

Each Site Coordinator shall be responsible for ensuring that all communications from the other Party are appropriately disseminated and processed. Respondent's Site Coordinator or designee shall be present on the Site or on call during all hours of Work at the Site.

23. Without limitation of any authority conferred on Ohio EPA by statute or regulation, Ohio EPA's Site Coordinator's authority includes but is not limited to the following:

- a. Consulting with Respondent and overseeing the type, quantity and location of samples to be collected by Respondent pursuant to the IA Work Plan.
- b. Collecting samples.
- c. Observing, taking photographs, or otherwise recording information related to the implementation of these Orders, including the use of any mechanical or photographic device.
- d. Directing that the Work stop whenever Ohio EPA's Site Coordinator determines that the activities at the Site may create or exacerbate a threat to public health or safety, or threaten to cause or contribute to air or water pollution or soil contamination.
- e. Conducting investigations and tests related to the implementation of these Orders.
- f. Inspecting and copying records, operating logs, contracts and/or other documents related to the implementation of these Orders.
- g. Assessing Respondent's compliance with these Orders.

XI. PROGRESS REPORTS AND NOTICE

24. Unless otherwise directed by Ohio EPA, Respondent shall submit a written progress report to the Ohio EPA by the fifteenth (15) day of every month. Progress reports shall be brief executive summaries in bulleted format. Monthly reports may not be used to propose modifications to approved plans; Respondent shall submit any such requests for modification(s) to Ohio EPA in a separate written correspondence.

25. Progress reports shall be sent either by e-mail with confirmed receipt or by hard copy to the address listed below. Any other documents required to be submitted to

Ohio EPA pursuant to these Orders, including but not limited to the Triad Investigation Final Report, shall be sent to the following agency address:

For progress reports and all other documents:

Robin Roth, or his successor
Ohio EPA
Division of Environmental Response and Revitalization
Central District Office
P.O. Box 1049
Columbus, Ohio 43216-1049

E-mail address: *robin.roth@epa.state.oh.us*

All other written/electronic correspondence to Respondent shall be directed to:

Duane Wanty, or his successor
Invensys
33 Commercial Street, C42-2G
Foxboro, MA 02035
(508) 549-6004

E-mail address: *duane.wanty@invensys.com*

and

Douglas Larson, or his successor
Geosyntec Consultants
289 Great Road, Suite 105
Acton, MA 01720
(978) 263-9588

E-mail address: *dlarson@geosyntec.com*

A Party may designate an alternative contact name or address upon written notification to the other Party and in accordance with the Designated Site Coordinators Section of these Orders, as applicable.

XII. REVIEW OF SUBMISSIONS

26. Ohio EPA shall review any work plan, report (e.g., monthly progress report or Final Triad Investigation Report), or other item required to be submitted pursuant to these Orders.

27. Upon review, Ohio EPA may (a) approve the submission in whole or in part, (b) approve the submission with specified conditions, (c) modify or, modify and approve, the submission, (d) disapprove the submission in whole or in part, or (e) any combination of the above. The results of Ohio EPA's review shall be provided to Respondent in writing and shall identify any conditions, modifications and/or deficiencies. Excluded from Ohio EPA approval pursuant to this Section is the HASP.

28. In the event that Ohio EPA approves a submission, Respondent shall proceed to take such action(s) as are identified by the approved submission. In the event that Ohio EPA approves a submission with one or more conditions or modifications to the submission, Respondent shall either (a) proceed to take such action as required by Ohio EPA or (b) initiate the procedures for dispute resolution set forth in the Dispute Resolution Section of these Orders, within twenty-one (21) days of receipt of Ohio EPA's written response to Respondent's submission. Respondent shall proceed to take any action required by an unmodified or unconditioned portion of the submission, as those portions are considered approved.

29. In the event that Ohio EPA disapproves a submission in whole or in part, and notifies Respondent in writing of the deficiencies, Respondent shall within thirty (30) days or such longer period of time as specified by Ohio EPA in writing, correct the deficiencies and submit a revised submission to Ohio EPA for approval. The revised submission shall incorporate all of the changes, additions, and/or deletions specified by Ohio EPA in its notice of disapproval. Revised submissions shall be accompanied by a letter indicating how and where each of Ohio EPA's comments was incorporated into the revised submission. To facilitate review of the revised submission, those portions of the document not affected by the Ohio EPA comments should remain unchanged, unless identified by Respondent in the accompanying letter and approved by Ohio EPA. The letter accompanying the submission should indicate, however, any indirect changes necessitated by Ohio EPA's comments.

30. To the extent that Respondent disputes any of Ohio EPA's changes, additions, and/or deletions to an initial submission, Respondent shall initiate the procedures for dispute resolution set forth in the Dispute Resolution Section of these Orders, within twenty-one (21) days after receipt of Ohio EPA's notice of disapproval. Notwithstanding the disapproval, Respondent shall proceed to take any action required by a portion of the submission that is not specified as disapproved in the notice of disapproval.

31. In the event that Ohio EPA disapproves or modifies a revised submission, in whole or in part, and notifies Respondent in writing of the deficiencies or modifications, Respondent shall within thirty (30) days, or such longer period of time as specified in writing by Ohio EPA, correct the deficiencies and incorporate all changes, additions, and/or deletions, and submit the revised submission to Ohio EPA for approval. If Respondent fails to submit a revised submission incorporating all changes, additions, modifications and/or deletions within thirty (30) days, or such longer period of time as specified by Ohio EPA in writing, Respondent shall be considered in breach and/or violation of these Orders.

32. All work plans, reports, or other items required to be submitted to Ohio EPA under these Orders shall, upon approval by Ohio EPA, be deemed to be incorporated in and made an enforceable part of these Orders. In the event that Ohio EPA approves a portion of a work plan, report, or other item, the approved portion shall be deemed to be incorporated in and made an enforceable part of these Orders.

XIII. DISPUTE RESOLUTION

33. The Site Coordinators shall, whenever possible, operate by consensus.

34. In the event of a disapproval, or an approval with condition(s) or modification(s) by Ohio EPA of a submission by Respondent, or a disagreement regarding the Work performed under these Orders, Respondent's Site Coordinator shall notify Ohio EPA's Site Coordinator in writing that Respondent wishes to invoke an informal dispute pursuant to this Section. The notification to invoke an informal dispute shall occur prior to the submission deadline.

35. The Parties shall have fourteen (14) business days from the date written notice of the informal dispute is received by Ohio EPA's Site Coordinator to negotiate in good faith to resolve the dispute. This informal dispute resolution period may be extended by agreement of the Site Coordinators for up to twenty (20) additional days.

36. In the event that the dispute is not resolved during the informal dispute resolution period, Respondent's Site Coordinator shall notify Ohio EPA's Site Coordinator in writing by the end of the informal dispute resolution period that Respondent wishes to invoke a formal dispute pursuant to this Section. This notice shall include a brief description of the item(s) in dispute. Within twenty (20) days of receipt of the written notice invoking the formal dispute resolution procedure, the Site Coordinators shall exchange written positions, including technical rationale supporting their positions. The Site Coordinators shall have ten (10) days from the date they have exchanged written positions to negotiate in good faith to resolve the formal dispute.

This formal dispute period may be extended by agreement of the Site Coordinators for up to twenty (20) additional days.

37. In the event the dispute is not resolved in the formal dispute resolution period, Respondent's Site Coordinator shall notify Ohio EPA's Site Coordinator in writing by the end of the formal dispute resolution period whether Respondent wishes to submit final written positions to the DERR Assistant Chief for review and resolution. The Site Coordinators shall have ten (10) days from the end of the formal dispute resolution period to submit their written positions. The DERR Assistant Chief will resolve the dispute based upon and consistent with these Orders, and other applicable federal and state laws and regulations. The decision of the DERR Assistant Chief is considered final for the purposes of these Orders.

38. The pendency of a dispute under this Section shall extend only the time period for completion of the item(s) in dispute, except that upon mutual agreement of the Site Coordinators, any time period may be extended as is deemed appropriate under the circumstances. Such agreement shall not be unreasonably withheld by Ohio EPA. Elements of the Work not affected by the dispute shall be completed in accordance with the applicable schedules and time frames.

XIV. UNAVOIDABLE DELAYS

39. Respondent shall cause all Work to be performed in accordance with applicable schedules and time frames set forth in these Orders or any approved work plan unless any such performance is prevented or delayed by an event that constitutes an unavoidable delay. For purposes of these Orders, an "unavoidable delay" shall mean an event beyond the control of Respondent that prevents or delays performance of any obligation required by these Orders and that could not be overcome by due diligence on the part of Respondent. Increased cost of compliance, among other circumstances, shall not be considered an event beyond the control of Respondent for the purposes of these Orders.

40. Respondent shall notify Ohio EPA in writing within ten (10) days after the occurrence of an event that Respondent contends is an unavoidable delay. Such written notification shall describe the anticipated length of the delay, the cause or causes of the delay, the measures taken and to be taken by Respondent to minimize the delay, and the timetable under which these measures will be implemented. Respondent shall have the burden of demonstrating that the event constitutes an unavoidable delay.

41. If Ohio EPA does not agree that the delay has been caused by an unavoidable delay, Ohio EPA will notify the Respondent in writing of that finding and of the

noncompliance with these Orders. If Ohio EPA agrees that the delay is attributable to an unavoidable delay, Ohio EPA will notify Respondent in writing of the length of the extension for the performance of the obligations affected by the unavoidable delay.

XV. REIMBURSEMENT OF COSTS

42. Ohio EPA has incurred and continues to incur Response Costs in connection with the Site. Respondent shall reimburse Ohio EPA for all Response Costs incurred both prior to and after the effective date of these Orders to the extent such costs were incurred in a manner not inconsistent with the NCP, 40 CFR Part 300.

43. Within sixty (60) days of receipt of an itemized invoice for the Response Costs incurred prior to the effective date of these Orders, Respondent shall remit a check to Ohio EPA for the full amount invoiced, unless Respondent invokes the Dispute Resolution Section of these Orders. To the extent the Respondent disputes the accuracy of the State of Ohio's request for reimbursement or whether costs are inconsistent with the NCP, Respondent shall initiate the formal dispute provisions of the Dispute Resolution Section within fourteen (14) days after receipt of Ohio EPA's request for reimbursement of costs. Should the Respondent dispute a portion of the response costs set forth in an itemized statement, but not all of the costs, Respondent shall timely pay the uncontested portion pursuant to the provisions of the Reimbursement of Costs Section.

44. For Response Costs incurred after the effective date of these Orders, Ohio EPA will submit to Respondent on a quarterly basis an itemized invoice of its Response Costs for the previous quarterly period. Within sixty (60) days of receipt of such itemized invoice, Respondent shall remit payment for all of Ohio EPA's Response Costs for the previous quarterly period, unless Respondent invokes the Dispute Resolution Section of these Orders. To the extent the Respondent disputes the accuracy of the State of Ohio's request for reimbursement or whether costs are inconsistent with the NCP, Respondent shall initiate the formal dispute provisions of the Dispute Resolution Section within fourteen (14) days after receipt of Ohio EPA's request for reimbursement of costs. Should the Respondent dispute a portion of the response costs set forth in an itemized statement, but not all of the costs, Respondent shall timely pay the uncontested portion pursuant to the provisions of the Reimbursement of Costs Section. In the event that Respondent does not remit payment of Response Costs within sixty (60) days after receipt of such invoice, Respondent shall remit payment for the unpaid balance and the interest accrued on the unpaid balance. Interest shall accrue beginning thirty (30) days from the date of the invoice until the date payment is remitted, and shall be calculated at the rate specified by ORC § 5703.47(B) or any subsequent rate adjustments.

45. Respondent 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 / Hazardous Waste Special Cleanup Account" and shall be forwarded to Office of Fiscal Administration, Attn: Akia Smith, Ohio EPA, Lazarus Government Center, 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.
- c. Each payment shall identify the name and address of the party making payment, the Site name, and Ohio EPA's revenue number, which shall be identified on the associated invoice.

XVI. ACCESS TO INFORMATION

46. Upon request, Respondent shall provide to Ohio EPA within twenty-one (21) days of receipt of a request, copies of all documents and information within its possession or control or that of its contractors or agents requested by Ohio EPA. This provision shall not be a limitation on any request for information to the Respondent by Ohio EPA made under state or federal law for information relating to events or conditions at the Site.

47. Respondent may assert a claim that documents or other information submitted to Ohio EPA pursuant to these Orders are confidential under the provisions of OAC 3745-50-30(A) or ORC § 6111.05(A). If no such claim of confidentiality accompanies the documents or other information when it is submitted to Ohio EPA, it may be made available to the public without notice to Respondent.

48. Respondent may assert that certain documents or other information are privileged under the attorney-client privilege or any other privilege recognized by state law. If Respondent makes such an assertion, it shall provide Ohio EPA with the following: (1) the title of the document or information; (2) the date of the document or information; (3) the name and title of the author of the document or information; (4) the name and title of each addressee and recipient; (5) a general description of the contents of the document or information; and (6) the privilege being asserted by Respondent.

49. No claim of confidentiality shall be made with respect to any data or reports, including but not limited to laboratory or interpretive reports, and all sampling, analytical, and monitoring data.

50. Respondent shall preserve for the duration of these Orders and for a minimum of five (5) years after termination of these Orders, all documents and other information within its possession or control, or within the possession or control of its contractors or agents, which in any way relate to the Work notwithstanding any document retention policy to the contrary. Respondent may preserve such documents by microfiche or other electronic or photographic device. At the conclusion of this document retention period, Respondent shall notify Ohio EPA at least sixty (60) days prior to the destruction of these documents or other information; and upon request, shall deliver such documents and other information to Ohio EPA.

XVII. MODIFICATIONS

51. These Orders may be modified by agreement of the Parties. Modifications shall be in writing, signed by the authorized representative of the Respondent and by the Director, and shall be effective on the date entered in the Journal of the Director of Ohio EPA.

XVIII. INDEMNITY

52. Respondent agrees to indemnify, save, and hold harmless Ohio EPA from any and all claims or causes of action arising from, or related to, the implementation of these Orders or to events or conditions at the Site by Respondent or the Former Robertshaw Controls Company, including any acts or omissions of Respondent, its officers, employees, receivers, trustees, agents, or assigns. Said indemnification shall not apply to acts or omissions of the State of Ohio, its employees, agents or assigns at, on, upon, or related to the Site if said acts are negligent, performed outside the scope of employment or official responsibilities, or performed with malicious purpose, in bad faith, or in a wanton or reckless manner. Ohio EPA shall not be considered a party to and shall not be held liable under any contract entered into by Respondent in carrying out the activities pursuant to these Orders. Ohio EPA agrees to provide notice to Respondent within thirty (30) days after receipt of any claim that may be the subject of indemnity as provided in this Section, and to cooperate with Respondent in the defense of any such claim or action against Ohio EPA.

XIX. OTHER CLAIMS

53. Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation not a Party to these Orders, for any liability arising from, or related to, events or conditions at the Site.

XX. RESERVATION OF RIGHTS

54. Ohio EPA reserves the right to seek legal and/or equitable relief to enforce the terms and conditions of these Orders, including penalties against Respondent for noncompliance with these Orders. Except as provided herein, Respondent reserves any rights it may have to raise any legal or equitable defense in any action brought by Ohio EPA to enforce the terms and conditions of these Orders.

55. Ohio EPA reserves the right to terminate these Orders and/or perform all or any portion of the Work or any other measures in the event that the requirements of these Orders are not wholly complied with within the time frames required by these Orders.

56. Ohio EPA reserves the right to take any action, including but not limited to any enforcement action, action to recover costs, or action to recover damages to natural resources, pursuant to any available legal authority as a result of past, present, or future violations of state or federal laws or regulations or the common law, and/or as a result of events or conditions arising from, or related to, the Site. Respondent reserves its rights to defend any such enforcement action, action to recover costs, or action to recover damages to natural resources and to raise any counterclaim, affirmative defense, third-party claim or cross claim which it may have with respect to these actions. Upon termination pursuant to the Termination Section of these Orders, Respondents shall have resolved their liability to Ohio EPA only for the Work performed pursuant to these Orders.

XXI. TERMINATION

57. Respondent's obligations under these Orders shall terminate upon approval in writing from the Ohio EPA Site Coordinator of Respondent's written certification to Ohio EPA that all Work required to be performed under these Orders including payment of Response Costs has been completed. The Respondent's certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate, and complete." This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. The termination of Respondent's obligations under these Orders shall not terminate the Respondent's obligations under the Reservation of Rights, Access to Information, Indemnity, and Other Claims Sections of these Orders. Once submitted, the Ohio EPA Site Coordinator will promptly review Respondent's written certification for approval or disapproval.

XXII. WAIVER AND AGREEMENT

58. In order to resolve disputed claims, without admission of fact, violation, or

liability, Respondent consents to the issuance of these Orders, and agrees to comply with these Orders.

59. Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights that it may have to seek administrative or judicial review of these Orders either in law or equity.

60. Notwithstanding the limitations herein on Respondent's right to appeal or seek administrative or judicial review, Ohio EPA and Respondent agree if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified. In the event that Ohio EPA takes any position in the appeal of these Orders which changes the obligations of Respondent hereunder, Respondent reserves the right to challenge any such position, or any change of obligations hereunder.

XXIII. EFFECTIVE DATE

61. The effective date of these Orders shall be the date these Orders are entered in the Journal of the Director of Ohio EPA.

XXIV. SIGNATORY AUTHORITY

62. Each undersigned representative of a Party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such Party to these Orders.

IT IS SO ORDERED AND AGREED:

OHIO ENVIRONMENTAL PROTECTION AGENCY



Scott J. Nally, Director
Ohio Environmental Protection Agency

JUN 28 2012

Date

Attachment A

Triad Investigation Work Plan

Attachment B

List of Relevant Guidance Documents

APPENDIX B

LIST OF GUIDANCE DOCUMENTS AND REFERENCES FOR USE WITH OHIO EPA DIVISION OF ENVIRONMENTAL RESPONSE AND REVITALIZATION (DERR) TRIAD INVESTIGATION AND INTERIM ACTION ORDERS

Statement of Purpose and Use of This Guidance Document List:

The purpose of this list of Ohio EPA and U.S. EPA policies, directives and guidance documents is to provide a reference of the documents that provide direction and guidance for conducting site investigations and interim actions. The listed documents incorporate by reference any documents listed therein. Certain sites may have contaminants or conditions which are not fully addressed by the documents in this list. There is an evolving body of policy directives, guidance and research documentation which should be used, as needed, to address circumstances not encompassed by the documents in this list. For sites where activities are conducted in response to an administrative or judicial order, this list will be an attachment to the order and will govern the work conducted. When entering into or issuing an order for any site, Ohio EPA reserves the right to modify this list to fully address the site conditions.

Analytical Methods

Compendium of Methods for Determination of Toxic Organic Compounds in Ambient Air, second edition, Compendium Method TO-14, EPA/625/R-96/010b, U.S. EPA, January 1999.

SW 846, Test Methods for Evaluating Solid Waste, 3rd Edition and updates (online), originally dated November 1986.

Standard Methods for the Examination of Water and Waste Water, American Public Health Association, 18th Edition 1992, and recent editions (online).

Background Guidance

Use of Background for Remedial Response Sites, Technical Decision Compendium, Ohio EPA DERR, August 2009.

Data Quality Objectives (DQOs)

Data Quality Objectives Process Summary, DERR-00-DI-32, Ohio EPA DERR, January 2002.

Guidance on Systematic Planning Using the Data Quality Objectives Process, U.S. EPA, EPA QA/G-4, February 2006. EPA/240/B-06/001.

Data Quality Assessment: A Reviewer's Guide, EPA QA/G-9R, U.S. EPA, EPA/240/B-06/002, OSWER, February 2006.

Data Quality Assessment: Statistical Methods for Practitioners, EPA QA/G-9S, U.S. EPA, EPA/240/B-06/003, OSWER, February 2006.

Data Usability in Risk Assessment

Guidance for Data Usability in Risk Assessment (Part A), U.S. EPA, OSWER 9285.7-09A, April 1992.

Guidance for Data Usability in Risk Assessment (Part B), U.S. EPA, OSWER 9285.7-09B, May 1992.

Ecological Risk Assessment

Ecological Risk Assessment Guidance Document, Ohio EPA DERR Remedial Response Program, April 2008.

Ecological Soil Screening Levels, U.S. EPA, online.

Ground Water Investigation

Ground Water Sampling and Monitoring Using Direct Push Technologies, U.S. EPA, OSWER 9200.1-51, EPA 540/R-04/005, August, 2005.

Technical Guidance Manual for Hydrogeologic Investigations and Ground Water Monitoring Programs, Ohio EPA/DDAGW, Final, On-Line (as updated).

Health and Safety Plan

NIOSH Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities, October 1985, DHHS (NIOSH) Publication No. 85-115.

OSHA Regulations particularly in 29 CFR 1910 and 1926.

Human Health Risk Assessment

Application of Bioavailability in the Assessment of Human Health Hazards and Cancer Risk, Ohio EPA/DERR, Remedial Response Program, August 2009.

Assessing Compounds without Formal Toxicity Values Available for Use in Human Health Risk Assessment, Ohio EPA DERR, Remedial Response Program, April 2010.

Exposure Factors Handbook (Final), U.S. EPA, EPA/600/P-95/002Fa-c, August 1997.

Human Health Cumulative Carcinogenic Risk and Non-carcinogenic Hazard Goals for DERR Remedial Response and Office of Federal Facility Oversight, Ohio EPA DERR, August 2009.

Risk Assessment Guidance for Superfund (RAGS) Volume 1: Human Health Evaluation Manual (Part A), U.S. EPA, EPA/540/1-89/002, December 1989.

Risk Assessment Guidance for Superfund (RAGS), Volume 1: Human Health Evaluation Manual (Part B, Development of Risk-Based Preliminary Remediation Goals) U.S. EPA, EPA/540/R-92/003. December 1991.

Risk Assessment Guidance for Superfund (RAGS), Volume 1: Human Health Evaluation Manual, (Part C, Risk Evaluation of Remedial Alternatives) U.S. EPA, OSWER 9285.7-01C, October 1991.

Risk Assessment Guidance for Superfund (RAGS), Volume 1: Human Health Evaluation Manual (Part D, Standardized Planning, Reporting and Review of Superfund Risk Assessments) Final, U.S. EPA, OSWER 9287-7-47, December 2001.

Risk Assessment Guidance for Superfund (RAGS), Volume 1: Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment), U.S. EPA, OSWER 9285.7-02 PB99-963312, July 2004.

Risk Assessment Guidance for Superfund: Volume 1 - Human Health Evaluation Manual, Supplemental Guidance: "Standard Default Exposure Factors." U.S. EPA, OSWER 9285.6-03, March 1991.

Use of Risk-Based Numbers in the Remedial Response Process Overview, Ohio EPA DERR, Remedial Response Program, June 2005.

U.S. EPA Integrated Risk Information System (IRIS) Data Base, U.S. EPA (online).

U.S. EPA Health Effects Assessment Summary Tables (HEAST), Office of Emergency & Remedial Response. HEAST values for non-radioactive chemicals (last Updated in 1997) are being superseded by EPA Provisional Peer Reviewed Toxicity Values (PPRTVs).

Quality Assurance

Data Quality Assessment: A Reviewer's Guide, (QA/G-9R), U.S. EPA, EPA/240/B-06/002, February, 2006.

Guidance for Preparing Standard Operating Procedures, U.S. EPA, EPA QA/G-6, EPA/600/B-07/001, April 2007.

Guidance on Environmental Data Verification and Data Validation, U.S. EPA, EPA/240/R-02/004, November 2002.

Incremental Sampling Methodology, Interstate Technology & Regulatory Council (ITRC), Incremental Sampling Methodology Team, February 2012.

Screening Values

Use of U.S. EPA's Regional Screening Levels as Screening Values in Human Health Risk Assessments, Ohio EPA DERR, Remedial Response Program, August 2009.

Triad Approach

Best Management Practices: Use of Systematic Project Planning Under a Triad Approach for Site Assessment and Cleanup, U.S. EPA, EPA-542-F-10-010, OSWER 5203P, September 2010.

Demonstrations of Method Applicability under a Triad Approach for Site Assessment and Cleanup - Technology Bulletin, U.S. EPA, EPA-524-F-08-006, OSWER, August 2008.

Improving Sampling, Analysis and Data Management for Site Investigation and Cleanup, U.S. EPA, EPA-542-F-04-001a, OSWER 5102G, April 2004.

Summary of the Triad Approach, U.S. EPA, Deana M. Crumbling, Office of Superfund Remediation and Technology Innovation 5102G, white paper March 25, 2004.

Use of Dynamic Work Strategies Under a Triad Approach for Site Assessment and Cleanup – Technology Bulletin, U.S. EPA, EPA 542-F-05-008, OSWER 5102G, September 2005.

Triad Resource Center (web page).

The Brownfields and Land Revitalization Technology Support Center, U.S. EPA, Argonne National Laboratory, and U.S. Army Corps of Engineers.

Vapor Intrusion

Sample Collection and Evaluation of Vapor Intrusion to Indoor Air, for Remedial Response and Voluntary Action Programs, Guidance Document, Ohio EPA DERR, May 2010.

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March 12, 2012 updates.