

**STATE OF MARYLAND** \*  
**DEPARTMENT OF THE ENVIRONMENT** \*  
**1800 Washington Boulevard** \*  
**Baltimore, Maryland 21230**

v.

**WMA Case No. SAP-15-2242**  
**LMA Case No. CO-15-SW-263**  
**ARMA Case No. A14-11-01**

**SPARROWS POINT LLC** \*  
**MCM MANAGEMENT CORPORATION** \*  
**HRE SPARROWS POINT, LLC**

\* \* \* \* \*

**SETTLEMENT AGREEMENT**

The State of Maryland, Department of the Environment (“MDE” or the “Department”), Sparrows Point LLC, MCM Management Corporation, and HRE Sparrows Point, LLC (collectively, the “Companies”), hereby represent and acknowledge that they agree to enter into this Settlement Agreement (“Settlement Agreement”) in resolution of the alleged violations of Titles 2, 4, 6, 7 and 9 of the Environment Article, Annotated Code of Maryland (the “Environment Article”), and implementing regulations alleged by the Department concerning operations and activities by the Companies at the former RG Steel facility at Sparrows Point (the “Property”).

**WHEREAS**, the Department is charged with the responsibility of enforcing State environmental laws in Maryland governing water and air pollution, solid and hazardous waste management, and oil and asbestos abatement control;

**WHEREAS**, the Property comprises approximately 3,100 acres of land located in Baltimore County on a peninsula surrounded by the Patapsco River, Bear Creek, Jones Creek, and Old Road Bay. The Property was the site of one of the largest steel mills in the country. Formerly owned and operated by Bethlehem Steel, it was most recently owned and operated as a steel mill by RG Steel.

**WHEREAS**, on September 14, 2012, SPLLC purchased the Property at a bankruptcy auction, and in conjunction with HRE and MCM, intended over the next several years to dismantle and demolish the existing industrial structures;

**WHEREAS**, under prior ownership, there were numerous environmental violations at the site and conditions that required long-term remediation. These issues include, but are not limited to circumstances that are the subject of a Consent Decree with the United States Environmental Protection Agency and the State of Maryland and conditions arising from incomplete demolition and remediation relating to the #2 Machine Shop by a contractor not party to this Settlement Agreement;

**WHEREAS**, Sparrows Point LLC owned the real estate at the Property, HRE Sparrows Point LLC owned the above-grade assets at the Property, and MCM Management Corporation has been under contract to HRE Sparrows Point LLC to handle all demolition and removal activities with respect to those assets;

**WHEREAS**, Sparrows Point LLC has now transferred the Property to Sparrows Point Terminal LLC (“SPT”) effective as of September 18, 2014. The parties acknowledge that SPT is not a party to this Agreement or the alleged violations referenced herein;

**WHEREAS**, except as specifically provided, the Companies agree to apportion responsibility for all of the specific tasks, duties and settlement monies under the Settlement Agreement among themselves and that each Company shall be responsible for the performance of its own tasks, duties and obligations, subject to the provisions of Section I. of this Settlement Agreement;

**WHEREAS**, the Department alleges that the Companies violated state environmental laws at the Property, as further detailed below;

**WHEREAS**, the Companies neither confirm nor deny the allegations set forth herein, but to avoid protracted litigation of the alleged violations, the parties have reached agreement on the terms of a Settlement Agreement;

**WHEREAS**, to the extent any of the “Recitation” paragraphs herein (i.e. the “Whereas” paragraphs) purport to assert a fact (e.g. a Department official asserts the existence of a fact at the Property), such assertion is not to be deemed to be an established fact but merely an allegation or assertion of a state of affairs or circumstances which may be disputed by the Companies. Moreover, where any Recitation Paragraph asserts the actual, potential or likely consequences of any such state of affairs or circumstances, such consequences are also mere allegations or assertions and are not to be deemed as acknowledged or agreed to by the Companies.

**A. ALLEGED VIOLATIONS**

**1. Water Pollution and Erosion and Sediment Control Violations**

**WHEREAS**, Envir. §§ 9-322 and 9-323 prohibit the discharge of any pollutant into the waters of the State unless authorized by a discharge permit issued by the Department. Waters of the State include both surface and underground waters. The term “discharge” includes the placement of a pollutant in a position where it is likely to pollute waters of the State;

**WHEREAS**, Envir. §§ 9-323 and 9-324 authorize the Department to issue permits to persons authorizing the discharge of pollutants, but only in compliance with State water quality standards, effluent limitations and any conditions the Department considers necessary to prevent water pollution;

**WHEREAS**, Envir. § 9-342(a) of the Environment Article provides that any person who violates any provision of Title 9, Subtitle 3 of the Environment Article or any rule, regulation,

order, or permit adopted or issued by the Department thereunder, is liable to a civil penalty of up to \$10,000 per violation, with each day a violation occurs constituting a separate violation;

**WHEREAS**, Sparrows Point LLC was the holder of NPDES Discharge Permit MD0001201/State Discharge Permit DP-0064 (“Discharge Permit”), which authorized the discharge of wastewater and storm water from the Property to waters of the State consistent with the terms and conditions of the Discharge Permit;

**WHEREAS**, the Discharge Permit required the analysis of the potential for storm water runoff of significant materials and the development and implementation of a plan to control it. Specifically, Special Conditions Y.3.a. and b. of the Discharge Permit required the development of a Storm Water Pollution Prevention Plan (“SWPPP”) that includes a site map that identifies the location of potential sources of pollutants to storm water, such as erodible byproducts and waste material and stockpiles, the direction of flow from such sources of pollutants, the location and drainage of each storm water outfall, and a description and implementation of the controls necessary to prevent the runoff of such materials;

**WHEREAS**, the Discharge Permit required Sparrows Point LLC to amend the SWPPP whenever there is a change in design, construction, operation, or maintenance which has a significant effect on the potential for the discharge of pollutants to waters of the State;

**WHEREAS**, the Companies commenced activities on the Property sometime in late 2012. However, as of May 2013, the SWPPP that had first been submitted in 2002 had not been updated. Sparrows Point LLC submitted an updated SWPPP to MDE on May 17, 2013, and a subsequent one on September 1, 2013. MCM Management Corporation became a co-permittee to the site Discharge Permit on August 28, 2013 with respect to the demolition activities and submitted supplemental information on September 6, 2013 and October 18, 2013, and submitted a separate

SWPPP for its activities on September 6, 2013. The updated information generally described the activities at the Property and the general plan to prevent pollution, but did not meet the minimum requirements of the Discharge Permit because it did not describe in detail the then current activities at the Property, the then current sources of pollutants, the specific storm water controls that would be necessary as a result of the demolition activities, or the storm water drainage areas and patterns resulting from demolition activities. Further, the updated information did not include a current topographic map showing the location of demolition areas, the direction of storm water flows from such areas, or the drainage area of storm water outlets;

**WHEREAS**, inspections by the Department of the Property on January 17, 2013, April 18, 2013, September 18, 2013, November 13, 2013, and January 27, 2014, noted that the SWPPPs that had been submitted were not being fully implemented, the controls in place were not adequate to protect storm water from contamination from ongoing activities on the Property, and pollutants were placed in positions where they were likely to pollute waters of the State;

**WHEREAS**, the parties submitted an amended SWPPP on March 10, 2014, and a further amended SWPPP on April 29, 2014, in response to comments of the Department;

**WHEREAS**, the Discharge Permit limits discharges of process waste water, including effluent from the Back River Waste Water Treatment Plant (Back River), to certain specified outfalls;

**WHEREAS**, at inspections on September 18, 2013 and October 10, 2013, inspectors noted Back River treated effluent being discharged from a fire hydrant in the #2 Machine Shop area, placing the effluent in potential contact with pollutants, including old batteries, construction debris, and fuel oil, before discharging to storm drains, and at an inspection on November 13, 2013, inspectors observed a discharge of Back River treated effluent from an above ground tank. The

Companies maintain that the treated effluent was used to fill water trucks to provide wet dust suppression to site roads, and that the inspection was done during a time that the tank was under repair;

**WHEREAS**, Envir. § 4-105(a)(3) and COMAR 26.17.01.05 require an approved sediment and erosion control plan for any grading or land disturbing activities that disturb 5,000 square feet or more or 100 cubic yards or more of earth. A person is prohibited from performing any of these activities unless that person: i) obtains an approved sediment control plan; ii) implements the measures contained in the approved sediment control plan; iii) maintains the provisions of the approved sediment control plan; and iv) implements any sediment control measures reasonably necessary to control sediment runoff;

**WHEREAS**, Envir. § 4-116(c) authorizes the assessment of civil penalties of up to \$10,000 per day for violations of any statutory provision relating to erosion and sediment control, with each day that a violation continues constituting a separate violation;

**WHEREAS**, the activities at Grey's Landfill require the implementation of approved erosion and sediment control plans, as well as all controls reasonably necessary to control sediment runoff;

**WHEREAS**, Grey's Landfill had an approved erosion and sediment control plan dated December 12, 2007, which the State maintains expired in December 2012. A new plan was submitted to the Baltimore County Soil Conservation District at the end of February 2013 and subsequently approved by Baltimore County Soil Conservation District on April 19, 2014;

**WHEREAS**, at an inspection on September 18, 2013, Department inspectors noted the lack of adequate controls at Grey's Landfill. Specifically, slope swales were eroded and inadequately armored with stones and/or vegetation, pipe slope drains running from the top of

the active cells of the landfill to the sediment basin on site had the potential to carry storm water commingled with landfill waste and landfill waste was seen to be accumulating in the slope and perimeter drainage swales. The Companies maintain that the pipe slope drains were installed per an approved design prior to 2012 by others not a party to this Agreement. Similar violations were identified at inspections on October 10, 2013, November 13, 2013, and January 27, 2014;

**WHEREAS**, deficiencies were also noted in the common borrow soil stockpile area adjacent to Grey's Landfill. Specifically, current site conditions were not reflected in the expired approved erosion and sediment control plan, stockpiles existed outside the limits of disturbance in the expired approved plan, inactive soil stockpiles were un-stabilized, and perimeter sediment controls were missing or not properly maintained;

**WHEREAS**, there is not an approved sediment and erosion control plan for the Coke Point Landfill. At an inspection on September 18, 2013, Department inspectors noted the lack of adequate controls at Coke Point. Specifically, a breach in the gravel filter berm constructed with slag was observed resulting in loose slag material discharging into the Patapsco River, which was repaired in September 2013. In addition, they noted un-stabilized slopes;

**WHEREAS**, none of the Companies have operated the Coke Point Landfill;

**WHEREAS**, at inspections on April 18, 2013, September 18, 2013, October 10, 2013, November 13, 2013, and January 27, 2014, MDE noted pollutants in locations around the Property where they were exposed to storm water and in positions where they were likely to pollute waters of the State. This included, among others, standing water with petroleum/oily material was noted in pits in the #2 machine shop area, -- which had been demolished prior to SPLLC's purchase of the Property by a contractor not party to this Settlement Agreement-- oily sludge type material was noted inside and outside heavy metal equipment in the #2 machine shop

area, black oil/petroleum sludge material was noted to have been dumped outside the Coke Point landfill, and construction debris was noted to be located around the Property. The Companies maintain that the black oil/petroleum sludge material had been dumped prior to SPLLC's purchase of the Property;

**2. Solid Waste Violations**

**WHEREAS**, the State of Maryland has a comprehensive scheme for the proper, safe and environmentally sound management of solid waste. Authority over the licensing and regulation of refuse disposal systems is vested with the Department pursuant to Envir. §§ 1-404, 9-204, and 9-252;

**WHEREAS**, Envir. § 9-204 prohibits the disposal of solid waste at sites that are not designed or operated in accordance with this comprehensive scheme and prohibits the operation of refuse disposal facilities without a permit. Under the applicable regulations, disposal sites which are not designed or operated in accordance with these State requirements are "open dumps." COMAR 26.04.07.02B(19). Solid waste may not be disposed of by any person in an open dump, nor may any person cause, suffer, allow, or permit open dumping on his or her property. COMAR 26.04.07.03B(4);

**WHEREAS**, COMAR 26.04.07.19E establishes minimum operating procedures for industrial landfills;

**WHEREAS**, Envir. § 9-228 and COMAR 26.04.08 prohibit a person from collecting scrap tires in the State without a license issued by the Department;

**WHEREAS**, Envir. § 9-268 provides that any person who violates any provision of Title 9, Subtitle 2 of the Environment Article or any rules, regulation, order, or permit adopted or



issued by the Department thereunder, is liable to a civil penalty of up to \$10,000 per violation, with each day a violation occurs constituting a separate violation;

**WHEREAS**, Greys and Coke Point Landfills are industrial waste landfills on the Property operated in accordance with requirements identified in the 1997 Consent Decree, as set forth in the Landfill Compliance Plan submitted and approved under the 1997 Consent Decree. In addition, Greys Landfill operated pursuant to Engineering Plans and Operations Manuals submitted and approved as part of the 1997 Consent Decree between the United States of America, Maryland, and Bethlehem Steel;

**WHEREAS**, at an inspection on November 13, 2013, a Department inspector noted: i) open dumping of solid waste, ii) open dumping of industrial waste sludge, iii) improper management of Greys and Coke Point landfills, and iv) stockpiles of scrap tires in various locations around the Property without the proper license;

**WHEREAS**, on November 30 2013, MCM applied for a secondary scrap tire collection permit, and MDE issued same on January 14, 2014;

**WHEREAS**, on December 4, 2013, the Department issued a site complaint noting landfill, open dumping, and scrap tire violations, and directing the Companies to immediately cease dumping of any solid waste and to clean up solid waste illegally dumped on the Property;

### **3. Hazardous Waste Violations**

**WHEREAS**, the State of Maryland has a comprehensive scheme for the proper, safe and environmentally sound management of hazardous substances and other industrial wastes. The Department has authority over the regulation and permitting of controlled hazardous substances pursuant to Envir. §§ 7-201 through 7-268;

**WHEREAS**, the Department has promulgated regulations establishing standards for generators of controlled hazardous substances and for owners and operators of hazardous waste treatment, storage and disposal facilities at COMAR 26.13.03 through 26.13.05;

**WHEREAS**, Envir. § 7-266(a) provides that any person who violates any provision of Title 7, Subtitle 2 of the Environment Article or any rule, regulation, order, or permit adopted or issued by the Department thereunder, is liable to a civil penalty up to \$25,000 per violation, with each day a violation occurs constituting a separate violation;

**WHEREAS**, at an inspection on November 14, 2013, Department inspectors noted the following violations of hazardous waste storage requirements: i) hazardous waste containers without containment, ii) storage of containers of hazardous waste without “no smoking” signs posted, iii) hazardous waste containers without labels and posted accumulation dates, iv) used UV lamps in open boxes that were not labeled or dated, v) the absence of required employee waste training record on file at the time of the inspection, and vi) required waste determinations appeared not to have been done for a variety of containers containing waste;

**WHEREAS**, the Companies maintain that the alleged hazardous waste violations were corrected on or before November 24, 2013;

**4. Oil Control Violations**

**WHEREAS**, the State of Maryland is responsible for administering and enforcing state laws regarding oil-related facilities, and oil-related activities, and oil pollution in and on the land and waters of the State. The Department’s statutory authority is set forth in Envir. §§ 4-401 through 4-708;

**WHEREAS**, Envir. § 4-415 empowers the Department to issue orders to persons responsible for discharging oil to take corrective action to mitigate the effects of the pollution and

restore the natural resources. Where there has been a release of oil that may impact groundwater resources, the Department may order or take any actions authorized by Envir. §§ 4-401 through 4-708 and COMAR 26.10.01 through 26.10.15 that include, but are not limited to, investigation of the source, nature, and extent of the release, source repair or removal, and soil and/or water removal, remediation, sampling, and evaluation;

**WHEREAS**, Envir. § 4-417(a) provides that any person who violates any provision of Title 4, Subtitle 4 of the Environment Article or any rule, regulation, order, or permit adopted or issued by the Department thereunder, is liable to a civil penalty up to \$25,000 per violation, with each day a violation occurs constituting a separate violation;

**WHEREAS**, at an inspection on November 13, 2013, Department inspectors noted pooled petroleum product on remnants of the concrete floor of the former No. 2 Machine Shop. Sampling of the product revealed it to be primarily motor oil. In addition, discharge of an oily sludge material was observed in an area outside the Coke Point landfill in the Fritz Enterprise area. These constitute violations of COMAR provisions that prohibit the discharge of oil in areas that are likely to pollute waters of the State, that require reporting and investigation of suspected releases (COMAR 26.10.01/26.10.08), and that require remediation of discharges of oil. (COMAR 26.10.01.04). The Companies maintain that the violations resulted from incomplete demolition and remediation by Environmental Cleansing Corporation, which is not a party to this Agreement, and that the conditions were present prior to SPLLC's purchase of the Property;

**5. Asbestos Control and Abatement Violations**

**WHEREAS**, the State of Maryland has a comprehensive scheme for the regulation of the safe removal and encapsulation of asbestos. The Department has authority over licensing,

training, and standards for asbestos removal pursuant to Envir. §§ 6-401 through 6-422. Regulations governing the control of asbestos are promulgated at COMAR 26.11.21;

**WHEREAS**, Envir. § 6-422 provides that any person who violates any provision of Title 6, Subtitle 4 of the Environment Article or any rule, regulation, order, or permit adopted or issued by the Department thereunder, is liable to a civil penalty up to \$25,000 per violation, with each day a violation occurs constituting a separate violation;

**WHEREAS**, at inspections by Department inspectors of asbestos projects at the Property, including of the Sinter Strand Site (April 18, 2013), Basic Oxygen Furnace Site (May 3, 2013 and September 25, 2013), Stock House Site (July 24, 2013), Coil Storage Building (November 6, 2013), Locomotive Repair Shop (November 13, 2013 and November 19, 2013), the Finishing Building (February 6, 2014), and the Processing and Shipping Building (March 20, 2014), the Department noted the following violations of asbestos control laws: i) sealed glove bags containing asbestos material which were completely dry to the touch, in violation of COMAR 26.11.21.06C(4) and (5); ii) waste bags containing tears, allowing the discharge of friable asbestos material to the atmosphere, in violation of COMAR 26.11.21.08A, and 26.11.15.02A and 40 CFR 61.150(a); iii) workers performing asbestos removal not using a surfactant in the water solution used to wet the asbestos material prior to and during removal, in violation of COMAR 26.11.21.06B(2); iv) failure to post NESHAP asbestos project notification signs at all entrances and exits to the site, in violation of COMAR 26.11.21.06A(2); v) visible emissions falling to the ground from a glove bag during asbestos stripping and removal, in violation of COMAR 26.11.15.02A and 40 CFR 61.150(a); vi) glove bags which were open and/or loosely tied, allowing asbestos fibers to be released to the outside atmosphere, in violation of COMAR 26.11.21.08A(1), and COMAR 26.11.15.02A and 40 CFR 61.150(a); vii) workers

inside regulated work areas not using respirators or wearing protective clothing, in violation of COMAR 26.11.21.05D; and viii) failure to notify the Department of removal projects, in violation of COMAR 26.11.21.03.

**B. DEPARTMENT ENFORCEMENT LETTER AND RESPONSE**

**WHEREAS**, on December 20, 2013, the Secretary of the Maryland Department of the Environment, Robert M. Summers, sent a letter to the Companies notifying them of the above alleged violations and offering an opportunity to meet to discuss resolution of the alleged violations prior to the Department initiating formal civil enforcement;

**WHEREAS**, the Companies responded by requesting a meeting to discuss the alleged violations, at which meeting the parties agreed to pursue negotiations on a Settlement Agreement;

**WHEREAS**, the Department has the authority to seek injunctive relief against the Companies in a civil action, or to exercise its administrative enforcement authority and issue corrective action orders, including orders to cease and desist demolition activities pending compliance with the law;

**WHEREAS**, the Companies dispute some or all of the factual allegations made herein as well as whether or not such factual allegations, if true, amount to violations of law;

**WHEREAS**, to avoid protracted litigation of the alleged violations and the corrective action required, the parties have reached agreement on the terms of a Settlement Agreement;

**WHEREAS**, it is the mutual objective of the Companies and the Department, by entering into this Settlement Agreement, to provide for and achieve compliance with the environmental laws addressed by this Settlement Agreement in an expeditious manner to protect public health and the environment;

**WHEREAS**, the Department believes that this Settlement Agreement is in the best interests of and will benefit the citizens of the State of Maryland;

**WHEREAS**, it is expressly understood that this Settlement Agreement pertains to the alleged violations of the State's environmental laws and regulations described herein, and that the Department has made no promises or representations other than those contained in this Settlement Agreement and that no other promises or representations will be made unless in writing. The Department makes no representations with regard to any criminal liability for the above-referenced violations, and has no authority over any criminal actions; and

**WHEREAS**, the above recitals form the basis of and the consideration for this Settlement Agreement.

**THEREFORE**, in consideration of the foregoing, it is **AGREED** by and among the Directors of the Land Management Administration, the Water Management Administration, and the Air and Radiation Management Administration of the Department, and the Companies, as follows:

#### I. SETTLEMENT PAYMENT

1. Subject to the terms and conditions set forth in this Section, the Companies shall pay to the Department the amount of ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000). Of this amount, THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$375,000) shall be a monetary payment (the "Cash Payment") and the remainder, ONE MILLION ONE HUNDRED TWENTY-FIVE THOUSAND (\$1,125,000) (the "Remainder Amount"), shall be offset by one or more qualifying Supplemental Environmental Projects ("SEPs"). A qualifying SEP under this Settlement Agreement must comply with the

Department's SEP Policy and must have a value of at least three times the settlement amount proposed to be offset, unless otherwise approved by the Department at its sole discretion

2. The parties agree that HRE Sparrows Point, LLC's limited and sole obligation and duty under this Settlement Agreement shall be payment to MDE of the Cash Payment. Within thirty (30) calendar days of the Effective Date of this Settlement Agreement, HRE Sparrows Point, LLC shall mail to the Maryland Department of the Environment, Fiscal Services Division, Cash Receipts/Advances Unit, P.O. Box 2057, Baltimore, Maryland 21203-2057 a check for the Cash Payment, payable to the Maryland Clean Water Fund. The payment of the Cash Payment as set forth herein by HRE Sparrows Point, LLC shall automatically effect the full release and discharge of HRE Sparrows Point, LLC by MDE from any and all duties and obligations under this Settlement Agreement.

3. The parties agree that Sparrows Point LLC and MCM Management Corporation (the "Performing Companies") shall be responsible for the Remainder Amount and that the Performing Companies shall allocate between themselves the responsibility for funding and performing any approved SEPs to offset that Remainder Amount or, in lieu of SEPs, for making any cash payments related to that Remainder Amount pursuant to paragraph 7 of this Section. Within ninety (90) days of the Effective Date of this Settlement Agreement, the Performing Companies shall thereafter submit one or more proposals for qualifying SEPs to the Department for review and approval in accordance with the Review and Approval Procedures set forth in this Settlement Agreement.

4. If MDE rejects a proposed SEP, the Performing Companies shall have an opportunity to submit an alternative proposal, but shall, in any event, have no more than one hundred eighty (180) days from the Effective Date of this Settlement Agreement for the parties to

agree on a proposed SEP(s). To the extent the parties are unable to agree on one or more SEPs, the parties will endeavor to resolve any disputes by direct discussion. To the extent that they are unable to resolve their disagreements, disputes will be subject to the contested case procedure of the Administrative Procedure Act, and COMAR 26.01.02.01, et seq.

5. Upon approval by MDE of a proposed SEP, the Performing Companies shall complete all work and expend all required funds to implement the SEP(s) in accordance with a schedule to be submitted and approved for the SEP(s). The Performing Companies shall be solely responsible for completion of the SEP.

6. Within 30 days from completion of the implementation of an approved SEP, the Performing Companies shall submit a written report to MDE documenting that implementation of the SEP is complete.

7. In the event that the Performing Companies fail to submit one or more SEPs for approval, or the parties are unable to agree on one or more SEPs following any dispute resolution, or if the approved SEP is not completed within the time required by MDE's approval of the SEP, the Performing Companies shall pay to MDE within 30 days of written demand by MDE the portion of the settlement payment sought to be offset by the SEP in the manner described in Paragraph 1 of this Section. If MDE determines that the SEP was substantially completed and that the Performing Companies acted in good faith, MDE may exercise its discretion to waive payment of that portion of the settlement payment sought to be offset by the SEP. If the Performing Companies complete the SEP for less than the amount at which the SEP was valued and the remaining SEPs or additional SEPs are not sufficient to offset the remainder of the settlement payment, the difference shall be paid to MDE within 45 days of written demand by MDE. Notwithstanding the foregoing, the parties will endeavor to resolve any disputes among



themselves by direct discussion and negotiation and any dispute among the parties regarding the value, timeliness or performance of the SEP shall be subject to these dispute resolution procedures. To the extent that they are unable to resolve their disagreements, disputes will be subject to the contested case procedure of the Administrative Procedure Act, and COMAR 26.01.02.01, et seq. The Performing Companies' obligation to pay under this provision upon demand by MDE shall be stayed pending resolution of any dispute initiated pursuant to this provision.

## II. PERSONS BOUND BY THIS SETTLEMENT AGREEMENT

8. This Settlement Agreement shall apply to and be binding upon the Department, each of the Companies and the Companies' successors and assigns. Any change in the ownership or corporate status of any of the Companies including, but not limited to, any transfer of assets or real or personal property shall not alter any of the Companies' responsibilities under this Settlement Agreement.

9. The Companies shall ensure that their contractors, subcontractors, laboratories, and consultants comply with this Settlement Agreement.

## III. NOTIFICATION

10. Unless otherwise specified, reports, correspondence, approvals, disapprovals, notices or other submissions relating to or required by this Settlement Agreement shall be in writing and shall be sent to the following:

For MDE:

Sharon Talley  
Chief of Enforcement  
Water Management Administration  
Maryland Department of the Environment  
1800 Washington Boulevard

Baltimore, Maryland 21230

Principal Counsel  
Maryland Department of the Environment  
1800 Washington Boulevard  
Suite 6048  
Baltimore, Maryland 21230

For the Companies:

For SPLLC:

Thomas G. Pike, Esq  
General Counsel  
Commercial Development Co., Inc.  
Environmental Liability Transfer, Inc.  
EnviroAnalytics Group LLC  
1650 Des Peres Road  
Suite 303  
St. Louis, MO 63131

George von Stamwitz  
Armstrong Teasdale LLP  
7700 Forsyth Boulevard  
Suite 1800  
St. Louis, MO 63105

Russell Becker  
Vice President, Remediation  
Sparrows Point LLC  
1430 Sparrows Point Boulevard  
Sparrows Point MD 21212

For MCM Management:

David Mardigian  
Chief Executive Officer  
MCM Management Corp  
35980 Woodward Avenue, Suite 210  
Bloomfield Hills, MI 48304

John E. Griffith, Jr. Esquire  
Earl Adams, Esquire  
DLA Piper LLP (US)  
6225 Smith Avenue  
Baltimore, Maryland 21209

For HRE Sparrows Point, LLC:

Eric Kaup  
General Counsel  
HRE Sparrows Point, LLC  
5 Revere Drive, Suite 206  
Northbrook, IL 60062

Michael K. Ohm  
Bryan Cave LLP  
161 N. Clark Street, Suite 4300  
Chicago, IL 60601

If the point of contact changes for any party, that party shall provide notification of the new point of contact.

#### IV. RELEASE AND RESERVATION OF RIGHTS

11. Upon payment of the Cash Payment, HRE Sparrows Point, LLC shall thereupon automatically be determined by MDE to be fully released and discharged from all duties and obligations under this Settlement Agreement.

12. Upon the full completion of all of the obligations set forth in this Settlement Agreement, the Department agrees to refrain from pursuing any civil enforcement action for the violations, including those alleged in this Settlement Agreement, which could have been brought prior to the execution of this Settlement Agreement against the Companies. The Department

specifically reserves, and this Settlement Agreement is without prejudice to, all rights against the Companies with respect to (a) criminal enforcement actions, or (b) violations of any other State law not alleged herein.

13. The Companies and the Department intend that nothing in this Settlement Agreement shall be construed as a release or covenant not to sue any third party not a signatory to this Settlement Agreement. Nothing contained in this Settlement Agreement shall affect any right, claim, cause of action, or defense of any party hereto with respect to third parties. The Companies and the Department specifically reserve any and all rights, defenses, claims, demands, and causes of action which the Companies and the Department may have against any third parties relating in any way to the subject matter of this Settlement Agreement.

14. Neither the terms nor the conditions of this Settlement Agreement, nor any act of performance by the Companies or the Department, shall collaterally estop the Department in any other proceeding with any third party not a signatory to this Settlement Agreement.

#### V. FORCE MAJEURE

15. The Companies shall perform all requirements under this Settlement Agreement in the manner and within the time limits established herein, unless performance is delayed or prevented by a force majeure. For purposes of this Settlement Agreement, a force majeure is defined as any event arising from causes not reasonably foreseeable and beyond the control of the Companies, or any entity controlled by the Companies or the Companies' contractors, which delays or prevents performance of any obligation under this Settlement Agreement despite due diligence and best efforts to fulfill the obligation. Circumstances beyond the control of the Companies include earthquake, flood or other act of God, war, riot, fire, or freight embargo. Force majeure does not include normal inclement weather, financial inability to complete the

work, increased cost of performance, changes in the Companies' business or economic circumstances, inability to attain media cleanup standards, or the failure to obtain federal, State, or local permits and authorizations unless the Companies has made timely and complete application for such permits and authorizations.

16. The Companies shall notify the Department in writing within three (3) days of its knowledge of the event which causes or may cause delay, describing in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by the Companies to prevent or minimize the delay, and a timetable by which those measures will be implemented. The Companies shall adopt all reasonable measures to avoid or minimize any such delay.

17. Failure by the Companies to comply with the notice requirements set forth in the preceding paragraph constitutes a waiver of the Companies' right to request an extension of the applicable deadline associated with the work at issue.

18. The Companies shall have the burden of proving that any delay is caused by circumstances beyond the control of the Companies.

## VI. TERMS OF THIS SETTLEMENT AGREEMENT

19. This Settlement Agreement shall become effective upon execution by the Department and shall terminate on the first anniversary of its execution except to the extent that any SEP has not been completed, and then only insofar as necessary to enforce this agreement with respect thereto or to resolve any dispute related thereto.

20. To the extent that a party to this Settlement Agreement ceases involvement with the site, it shall give notice to the other parties to the Settlement Agreement pursuant to the notice provisions hereof. The party giving notice shall provide a detailed plan for satisfying or

transferring existing responsibilities of such party under the Settlement Agreement and seek approval from MDE of such plan. Upon implementation of such plan, MDE shall acknowledge satisfaction of the terms of this Settlement Agreement. Without limiting the generality of the foregoing, if MCM were to cease work as the demolition contractor for the site and stabilize the area of its prior work, it shall be relieved of ongoing responsibilities under this Settlement Agreement.

21. Each person signing this Settlement Agreement certifies that he or she is duly authorized by the party on behalf of which each signs to execute this Settlement Agreement and to bind that party to the terms of this Settlement Agreement.

22. The Companies agree to undertake and complete all actions required by the terms and conditions of this Settlement Agreement. In any action by the Department to enforce the terms of this Settlement Agreement, the Companies consent to and agree not to contest the authority or jurisdiction of the Department to enforce this Settlement Agreement, and agree not to contest the validity of this Settlement Agreement or its terms or conditions.

23. Failure to pay any civil penalty owed pursuant to this Settlement Agreement may result in this case being referred to the State of Maryland's Central Collection Unit ("Central Collection Unit") as a debt owed to the State. The Central Collection Unit is authorized to collect outstanding debts resulting from unpaid penalties. The Central Collection Unit will add a collection fee of 17%, plus interest, to the amount owed by the Companies. In addition, the Central Collection Unit is authorized to report the debt to consumer reporting agencies.

24. Any report or other document submitted by the Companies pursuant to this Settlement Agreement which makes recommendations as to whether or not further actions are necessary, or makes any representation concerning the Companies' compliance or noncompliance

with any requirement of this Settlement Agreement, shall be certified by a responsible corporate officer of one of the Companies. A responsible corporate officer means: a president, secretary, treasurer, or vice-president in charge of a principal business function, or any other person who performs similar policy or decision-making functions.

25. The certification shall be in the following form:

I certify under penalty of law 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. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to be the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

26. This Settlement Agreement is not intended to be nor shall it be construed to be a permit. The Companies acknowledge and agree that the Department's approval of any plan does not constitute a warranty or representation that the plan will achieve the required compliance or performance standards. Compliance by the Companies with the terms of this Settlement Agreement shall not relieve the Companies of their obligations to comply with any other applicable local, state, or federal laws and regulations.

27. The Companies shall acquire and retain copies of all documents that relate to the Property that are in the possession of each Companies' employees, agents, accountants, contractors or attorneys. The Companies shall preserve all documents and information, including raw data, relating to the work performed under this Settlement Agreement for five (5) years following completion of the work.


28. If a court issues an order that invalidates any provision of this Settlement Agreement or finds that the Companies have sufficient cause not to comply with one or more

provisions of this Settlement Agreement, the Companies shall remain bound to comply with all provisions of this Settlement Agreement not invalidated or determined to be subject to a sufficient cause defense by the court's order.

29. This Settlement Agreement shall be construed in accordance with the laws of the State of Maryland.

30. This Settlement Agreement is agreed to and its terms and conditions consented to by:

**SPARROWS POINT LLC**

  
\_\_\_\_\_  
Authorized Signatory (insert title) *MEMBER*

Date 3/26/15

**MCM MANAGEMENT CORPORATION**

\_\_\_\_\_  
Authorized Signatory (insert title)

Date \_\_\_\_\_

**HRE SPARROWS POINT, LLC**

\_\_\_\_\_  
Authorized Signatory (insert title)

Date \_\_\_\_\_



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29. This Settlement Agreement shall be construed in accordance with the laws of the State of Maryland.

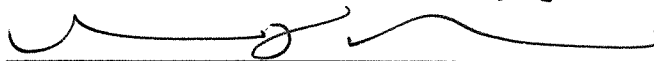
30. This Settlement Agreement is agreed to and its terms and conditions consented to by:

**SPARROWS POINT LLC**

\_\_\_\_\_  
Authorized Signatory (insert title)

Date \_\_\_\_\_

**MCM MANAGEMENT CORPORATION**

  
\_\_\_\_\_  
Rob Mardigian, President

Date 3/25/15

**HRE SPARROWS POINT, LLC**

\_\_\_\_\_  
Authorized Signatory (insert title)

Date \_\_\_\_\_

provisions of this Settlement Agreement, the Companies shall remain bound to comply with all provisions of this Settlement Agreement not invalidated or determined to be subject to a sufficient cause defense by the court's order.

29. This Settlement Agreement shall be construed in accordance with the laws of the State of Maryland.

30. This Settlement Agreement is agreed to and its terms and conditions consented to by:

**SPARROWS POINT LLC**

\_\_\_\_\_  
Authorized Signatory (insert title)

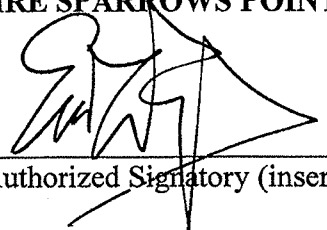
Date \_\_\_\_\_

**MCM MANAGEMENT CORPORATION**

\_\_\_\_\_  
Authorized Signatory (insert title)

Date \_\_\_\_\_

**HRE SPARROWS POINT, LLC**

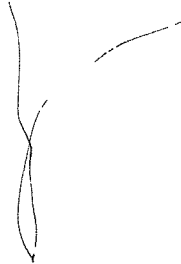
  
\_\_\_\_\_  
Authorized Signatory (insert title)

Date 25 MARCH 2015

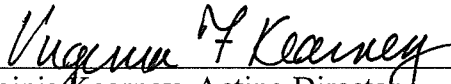
**STATE OF MARYLAND,  
DEPARTMENT OF THE ENVIRONMENT**



\_\_\_\_\_  
Horacio Tablada, Director  
Land Management Administration

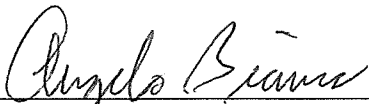


Date 3/30/2015



\_\_\_\_\_  
Virginia Kearney, Acting Director  
Water Management Administration

Date 3/31/15



\_\_\_\_\_  
George Aburn, Director  
Air and Radiation Management Administration

Date 4/2/15

Approved as to form and legal sufficiency this 30<sup>th</sup>  
day of March, 2015.



\_\_\_\_\_  
Steven R. Johnson  
Assistant Attorney General