

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 22 C 392
)	
ORTEK, INC., and LOWELL)	Judge Chang
AUGHENBAUGH,)	
)	
Defendants.)	

ORDER IN AID OF IMMEDIATE ACCESS

Pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. § 9604(e), plaintiff United States of America has moved for an order in aid of immediate access (“Order”) to allow the United States Environmental Protection Agency (“EPA”) immediate access to property that was formerly used for waste oil processing by Ortek, Inc. The approximately six-acre Ortek Superfund Site (“Site”) is located at 7601 West 47th Street in McCook, Cook County, Illinois, and comprises eight parcels. This order applies to two of the eight parcels, referred to as property numbers 18-12-101-021-0000 and 18-12-101-049-0000 (jointly, “the Property”). The Site is bounded by West 47th Street and a bowling alley to the north, Forest Preserve District woodland and the Des Plaines River to the east, railroad tracks and the Des Plaines River to the south, and a trucking company to the west. The United States seeks the requested Order, pursuant to Section 104(e)(5)(B)(i) of CERCLA, 42 U.S.C. § 9604(e)(5)(B)(i), for the purposes of performing additional sampling and conducting a removal action at the Site, which includes the Property.

The Court, having reviewed the submissions, finds that: (1) the site is a “vessel, facility, establishment, or other place or property”; (2) EPA has “a reasonable basis to believe there may

be a release or threat of release of a hazardous substance”; (3) EPA has requested consent for access to the Property and been unsuccessful; and (4) EPA seeks entry to perform actions covered by the statute, thereby satisfying the statutory prerequisite for EPA’s entry and access to the Property under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e).

Accordingly, the United States’ motion for an order in aid of immediate access is granted, and it is hereby

ORDERED as follows:

1. EPA, including its officers, employees, contractors, and representatives, and any third parties that are voluntarily conducting removal activities at the Site, or that are respondents to any EPA administrative order for the Site, are authorized to immediately enter the Property, pursuant to Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), for the purposes of performing additional sampling and conducting a removal action at the Site, for a period of 12 months from the date of this Order.

2. EPA is allowed access to perform the following activities:

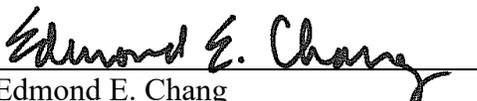
- a. Update and implement a Site Health and Safety Plan (to include a Perimeter Air Monitoring and Sampling Plan) and develop measures to control dust during the removal and deconstruction of the tanks on Site;
- b. Update the Site-specific Work Plan, Quality Assurance Project Plan (QAPP), and Emergency Contingency Plan as needed;
- c. Update and implement a Site-specific sampling plan, to conduct additional disposal characterization of wastes from the tanks on Site, as needed, for waste profile purposes;

- d. Remove and properly dispose of hazardous liquids and sludges from the remaining tanks, pits, totes, drums, containers, and secondary containment onsite;
- e. As appropriate, remove and properly dispose of contaminated soil associated with underground piping, sumps, tanks, or spilled material;
- f. Decontaminate tanks, pits, secondary containment areas, and heavy equipment as necessary, and appropriately dispose of decontamination water;
- g. As necessary, deconstruct tanks and remove tanks, pits, and totes from the Site (this action will only be taken if tanks are structurally compromised, pose a safety risk, or if needed to access other tanks);
- h. Transport and dispose of or recycle all characterized or identified hazardous substances, pollutants, wastes, or contaminants that pose a substantial threat of release at EPA-approved disposal facilities in accordance with EPA's Off-Site Rule (40 C.F.R. § 300.440);
- i. If any additional samples taken confirm the presence of TCE, PCE, benzene, lead, chromium, or PCBs in liquids or sludges on the Property, other than the areas previously sampled, extract and properly dispose of all such liquids and sludges containing these hazardous substances;
- j. As necessary, temporarily store hazardous liquids and sludges removed from elsewhere on the Site in tanks on the Property before transporting and disposing of such liquids and sludges at an EPA-approved disposal facility.

3. Federal, state, and/or local law enforcement personnel are also allowed access to the Property for the duration of this Order for the purpose of providing security to personnel and equipment on the Property.

4. Defendants Ortek, Inc., and Lowell Aughenbaugh shall permit EPA, including its officers, employees, contractors, and representatives, to enter onto the Property for the purposes described in this Order, and shall refrain at all times from any interference with such entry and conduct of EPA activities at the Property.

5. This Order shall remain in effect until it expires or is modified by the Court.

ENTER: 
Edmond E. Chang
United States District Court Judge

Date: 04/26/2022