

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

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IN THE MATTER OF: )  
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HISTORIC CARGILL FALLS MILL, LLC )  
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58 Pomfret Street, Suite 2200 )  
Putnam, CT 06260 )  
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Respondent )  
 )  
Proceeding under Section 7003(a) of the Resource )  
Conservation and Recovery Act, 42 U.S.C. § 6973, )  
*et seq.*, as amended. )

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**ADMINISTRATIVE  
ORDER ON CONSENT**

**I. INTRODUCTION**

This Administrative Order on Consent (“AOC”) is entered into voluntarily by the U.S. Environmental Protection Agency, Region 1 (“EPA”) and Historic Cargill Falls Mill, LLC (“Cargill Falls”). EPA is ordering lead abatement, testing, analysis, and reporting pursuant to Section 7003(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6973(a), at 50 residential units located at the Lofts at Cargill Falls Mill located at 58 Pomfret Street, Putnam, Connecticut (“the Property”). In entering into this AOC, the mutual objectives of EPA and Cargill Falls are to identify, investigate, remedy, and/or prevent conditions which may present an imminent and substantial endangerment to health or the environment from activities involving solid waste, and to ensure that the work ordered by EPA in this AOC be designed and implemented by Cargill Falls to protect human health and the environment.

Pursuant to Section 7003 of RCRA, once EPA determines that past or present handling, storage, treatment, transportation or disposal of any solid waste or hazardous waste may present an imminent and substantial endangerment to health or the environment, the Administrator may bring suit on behalf of the United States in the appropriate district court against any person (including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility) who has contributed or who is contributing to such handling, storage, treatment, transportation or disposal, to restrain such person from such handling, storage, treatment, transportation or disposal, to order such person to take such other action as may be necessary, or both. Further, the Administrator may also,

after notice to the affected State, take other action under Section 7003 including, but not limited to, issuing such orders as may be necessary to protect public health and the environment.

This AOC applies to and binds Cargill Falls and its officers, employees, trustees, agents, successors, and assigns. No change in ownership, name or corporate status shall alter the obligations to comply with this AOC. Cargill Falls must give notice of this AOC to any successors in interest prior to transfer of the Property or its operations and to all contractors, subcontractors, laboratories and consultants retained to help implement this AOC. Cargill Falls must ensure that all such contractors, subcontractors, laboratories, and consultants comply with the terms of this AOC.

EPA has given the State of Connecticut notice of the issuance of this AOC in accordance with RCRA Section 7003(a), 42 U.S.C. § 6973(a). EPA has provided notice to the Town of Putnam, Connecticut of this action pursuant to Section 7003(c) of RCRA, 42 U.S.C. § 6973(c).

## II. **LEGAL BASIS FOR ISSUING ORDER UNDER RCRA SECTION 7003**

This section outlines the conclusions of law that support EPA's determination that it has jurisdiction and a factual basis to issue an AOC pursuant to RCRA Section 7003 to Cargill Falls. The legal conclusions are based on the facts contained in Attachment I to this AOC and to the administrative record compiled by EPA. The record is available for review at EPA's regional office, which is located at 5 Post Office Square, Suite 100, Boston, MA 02109.

EPA has determined that:

- A. Cargill Falls is "a person" as that term is defined by RCRA Section 1004(15), 42 U.S.C. Section 6903(15).
- B. The lead dust and defective lead-based paint at the Property, as identified in Attachment I hereto, constitutes "solid waste" as that term is defined in Section 1004(27) of RCRA, 42 U.S.C. Section 6903(27).
- C. The solid waste referred to in paragraph B. above has been and/or is currently being handled, stored, treated, or disposed of at the Property;
- D. Based on the information described in Attachment I hereto, EPA has determined that present conditions at the Property may present an imminent and substantial endangerment to health or the environment within the meaning of Section 7003(a) of RCRA, 42 U.S.C. Section 6973(a) arising from the past or present handling, storage, treatment or disposal of lead-based paint and dust containing lead (i.e., "solid waste") at the Property;
- E. Cargill Falls has been and is currently contributing to the handling and/or storage, treatment and/or disposal of such solid waste at the Property which

may present an imminent and substantial endangerment to health or the environment;

- F. The actions required by this AOC are consistent with RCRA and are necessary to protect health or the environment.

### III. **WORK REQUIRED UNDER THIS ORDER**

- A. Respondent shall **abate the conditions described above by August 31, 2024, for occupied units, and by September 30, 2024, for unoccupied units, by taking, at a minimum, the following steps, in accordance with all applicable federal, state, and local laws, and regulations:**
  - 1. Provide by email to EPA Inspector Molly Magoon ([magoon.molly@epa.gov](mailto:magoon.molly@epa.gov)) and Enforcement Counsel Megan Edwards ([edwards.megan@epa.gov](mailto:edwards.megan@epa.gov)) copies of any and all records related to any and all State or local department of health-issued remediation or abatement orders related to lead dust and lead-based paint at the Property, and any other documents or records related to such Lead Abatement Orders;
  - 2. Identify any remaining residential units and/or common areas at the Property not already remediated or abated pursuant to State or local department of health-issued Lead Abatement Orders and not previously identified and evaluated by Atlas Technical Consultants and documented in the Lead Inspection & Risk Assessment (revised December 8, 2023) (Exhibit 1) or any other licensed risk assessor.
    - a. For any such units and/or common areas identified pursuant to paragraph A.2. above, hire a licensed lead inspector or risk assessor to perform an inspection/risk assessment of such units and common areas to identify the extent of any lead dust or defective lead-based paint. If lead-based paint hazards and/or lead dust hazards are identified,
      - i. develop an abatement plan, including a schedule; and
      - ii. submit the abatement plan to the local department of health (“DOH”) for review and approval.
  - 3. Revise the Lead Abatement Plan prepared by Atlas Technical Consultants, LLC (dated on December 7, 2023) (Exhibit 2) to include a schedule and submit such plan to the DOH for approval (if not already submitted) with an email copy to EPA’s Molly

Magoon. If the Lead Abatement Plan already has been submitted to the DOH and has not yet been approved, revise the plan to include a schedule and re-submit it to the DOH with an email copy to EPA's Molly Magoon. If the Lead Abatement Plan has not already been approved by the DOH, notify EPA's Molly Magoon within 24 hours of the date when the Lead Abatement Plan has been approved. The schedule must prioritize units with children under 18 years old;

4. Hire a state-licensed and insured lead abatement contractor to perform abatement in all residential units set forth in the Lead Abatement Plan identified in paragraph 3. above and any abatement work identified pursuant to paragraph 2.a. above, and provide a copy of the abatement contractor's license to EPA's Molly Magoon within five days of hiring the lead abatement contractor;
5. Within thirty (30) days of receiving funding from the Connecticut Department of Housing, initiate lead abatement in residential units pursuant to the approved revised Lead Abatement Plan prepared by Atlas Technical Consultants and any such lead abatement plan as developed pursuant to paragraph A.2.a. in accordance with the schedule set forth in the plan. The specific units at the Property requiring lead abatement are: 1103, 2101, 2102, 2103, 2104, 2201, 2204, 2206, 2207, 2208, 2301, 2302, 2303, 2304, 2307, 2308, 2401, 2402, 2403, 2404, 2405, 2407, 2408, 4203, 4205, 4207, 4209, 4211, 4213, 4215, 4217, 4301, 4303, 4304, 4305, 4307, 4309, 4311, 4313, 4315, 4317, 5203, 5301, 5302, 5303, 5402, 5403, 5501, 5502, and 5503, and any other unit identified pursuant to paragraph A.2;
6. Hire a certified lead-based paint inspector in accordance with HUD Guidelines and Connecticut Department of Health abatement regulations to conduct clearance sampling at each unit following abatement, and provide all clearance sampling results to EPA's Molly Magoon within seven (7) days of receiving sampling results;
7. Provide site access to local, state, and federal officials at all times and during the period of abatement and clearance testing; and
8. From the start date of the abatement work, provide by email to Molly Magoon ([magoon.molly@epa.gov](mailto:magoon.molly@epa.gov)) and Megan Edwards ([edwards.megan@epa.gov](mailto:edwards.megan@epa.gov)) written weekly updates describing the work that has been completed during the past seven days and any problems encountered. Updates shall be submitted by close of

business each Friday during the period that work is ongoing.

- B. Within 24 hours of receiving this Order, Respondent shall post signs at all entrances to the Property, advising that EPA has determined that the Property contains solid and/or hazardous wastes (lead dust and defective lead-based paint) that may present an imminent and substantial endangerment to health or the environment. The signs shall identify the specific units and areas that are the subject of this Order. Cargill Falls shall make available to tenants a copy of the Order upon request. These signs shall be maintained until Cargill Falls has fully complied with this Order as determined by EPA.
- C. Cargill Falls shall use its best efforts to obtain access to residential apartments at the Property to perform abatement and clearance activities. If Cargill Falls is unable to obtain access to a residential unit, Cargill Falls shall notify EPA within 24 hours of such inability.
- D. Cargill Falls shall be financially responsible for the temporary relocation of tenants who reside in units that will be abated during the full period of abatement until clearance testing has been performed in each unit and clearance has been achieved.
- E. Off Site Shipments. All hazardous wastes and constituents removed offsite pursuant to this Order for treatment, storage, or disposal shall be treated, stored, or disposed of at a licensed or permitted RCRA facility.
- F. Compliance with Other Laws. Cargill Falls shall perform all actions required pursuant to this Order in accordance with all applicable local, state, and federal laws and regulations.
- G. Final Report. Within thirty (30) days after completion of all actions required under this Order, and no later than October 30, 2024, Cargill Falls shall submit to Molly Magoon ([magoon.molly@epa.gov](mailto:magoon.molly@epa.gov)) and Megan Edwards ([edwards.megan@epa.gov](mailto:edwards.megan@epa.gov)) a final report certifying that the Property has been abated and/or cleaned of lead dust and defective lead-based paint and that the work described in paragraph A. above has been completed (“Final Report”). The Final Report shall include a list of quantities and types of materials removed offsite or handled onsite, a list of the ultimate destination(s) of those materials, a presentation of the analytical results of all clearance sampling and analyses performed, and copies of all documentation generated during the work (e.g., manifests, invoices, bills, contracts and permits). The Final Report shall also include the following certification signed by a person who supervised or directed

the preparation of that report:

Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the Final Report, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

- H. If EPA determines that the work has not been completed in accordance with this AOC, EPA will notify Cargill Falls, provide a list of the deficiencies, and require that Cargill Falls take any additional actions necessary to correct such deficiencies. Cargill Falls shall implement any additional actions specified by EPA according to the schedule set forth in EPA's notice. Cargill Falls shall then submit a modified Final Report in accordance with the EPA notice. Failure by Cargill Falls to take the additional actions required by EPA shall be a violation of this AOC.
  
- I. After the completion of the abatement work required by this AOC, by July 1<sup>st</sup> of each of the five (5) calendar years following the year of the date of issuance of this AOC, Cargill Falls shall conduct visual inspections and lead dust wipe tests for all units where lead dust and lead-based paint hazards were identified (including units for which state or local authorities have issued an Abatement Order) and submit the inspection reports and dust wipe test results to EPA within 30 days of their completion.
  - 1. If any inspection or dust wipe test identifies any lead dust or defective lead-based paint, Cargill Falls shall notify EPA and local health authorities within five business days of receipt of the inspection report and/or dust wipe test results. In addition, within 21 days of receipt of the inspection report and/or dust wipe test results, Cargill Falls shall conduct a lead risk assessment for all units where defective lead paint and/or lead dust were identified.
  - 2. If the lead risk assessment identifies lead dust or lead-based paint hazards, within 21 days of receipt of the risk assessment, Cargill Falls shall prepare a lead abatement plan including a schedule for abatement for units requiring abatement. Cargill Falls shall submit the risk assessment and abatement plan and schedule to the local health department for approval and to EPA within five business days of its completion. Cargill Falls shall implement the approved abatement plan in accordance with the schedule therein.
  - 3. Cargill Falls shall hire a certified lead-based paint inspector in

accordance with HUD Guidelines and Connecticut Department of Health abatement regulations to conduct clearance sampling at each unit following abatement and provide all clearance sampling results to EPA's Molly Magoon within seven (7) days of receiving sampling results.

IV. **INCORPORATION OF DOCUMENTS INTO THIS ORDER**

All attachments to this AOC are deemed incorporated into and made an enforceable part of this AOC. Upon approval by EPA, all submissions made under this AOC shall be deemed incorporated into and made an enforceable part of this Order. Thus, the term "AOC" refers to this AOC, the attachments to this AOC, and all submissions made pursuant to this AOC.

V. **MODIFICATIONS**

If warranted by conditions at the Property, Cargill Falls may request a modification to this AOC in writing to be sent to EPA's Molly Magoon and Megan Edwards, who may agree in writing, for good cause, to such request.

VI. **CREATION OF DANGER; EMERGENCY RESPONSE**

Upon the occurrence of any incident or discovery of any condition that causes or threatens a release of hazardous waste from the Property or endangerment to human health or the environment, Cargill Falls must notify immediately EPA's Molly Magoon, Enforcement and Compliance Assurance Division, at [magoon.molly@epa.gov](mailto:magoon.molly@epa.gov) or (617) 918-1848, or in the event of her unavailability notify the Branch Chief of the Emergency Planning and Response Branch, EPA Region 1 at (617) 918-1230. Please note that nothing in this Order limits the authority of EPA to take or order all action necessary to protect human health or the environment or prevent, abate, or minimize an actual or threatened release of solid and/or hazardous substances, hazardous wastes, or solid wastes, at or from the Property.

VII. **COMMUNITY RELATIONS**

At the same time Cargill Falls submits a lead abatement plan to DOH (copy to EPA) for review and approval, Cargill Falls shall also submit a plan to EPA's Molly Magoon and Megan Edwards for communicating the abatement plan to the residents of the Property. In addition, Cargill Falls shall participate, to the extent determined appropriate by EPA, in any community relations plan developed by EPA. Cargill Falls also shall cooperate with EPA in providing information regarding the work required under this Order to the public. As requested by EPA, Cargill Falls shall participate in the preparation of information for dissemination to the public and in public meetings which may be held or sponsored by EPA to explain lead abatement activities at or

relating to the Facility.

#### VIII. **POTENTIAL CONSEQUENCE OF FAILURE TO COMPLY**

In the event that Cargill Falls fails or refuses to comply with any requirement of this AOC, Section 7003(b) of RCRA, 42 U.S.C. Section 6973(b), authorizes EPA to commence a civil action in the U.S. District Court to require compliance and to assess a civil penalty not to exceed \$18,139 for each day during which failure or refusal occurs.<sup>1</sup>

We look forward to your continued cooperation in satisfying the requirements of this AOC and encourage you to call or email the following EPA staff members with any questions: Megan Edwards, Esq. at (617) 918-1542 or [edwards.megan@epa.gov](mailto:edwards.megan@epa.gov) (for legal issues), or Molly Magoon at (617) 918-1848 or [magoon.molly@epa.gov](mailto:magoon.molly@epa.gov) (for technical issues).

#### IX. **RESERVATION OF RIGHTS BY EPA**

EPA reserves all rights against Cargill Falls and all other persons to take any further civil, criminal, or administrative enforcement action pursuant to any available legal authority (including Section 7003(b) of RCRA, 42 U.S.C. Section 6973(b)), and including the right to seek injunctive relief; the recovery of money expended or to be expended (plus interest); monetary penalties; criminal sanctions; and/or punitive damages regarding: (i) any violation of this AOC; or (ii) any actual or potential threat to human health or the environment, or any release or threat of release of hazardous substances on, at, in, or near the facility. Nothing in this AOC shall preclude EPA from taking any additional enforcement actions, including modification of this AOC or issuance of additional Orders, and/or additional actions as EPA may deem necessary, or from requiring Respondent in the future to perform additional activities pursuant to RCRA, or any other applicable law.

EPA further expressly reserves the right both to disapprove work performed by Cargill Falls or its contractors and to request or order Cargill Falls to perform tasks in addition to those detailed in this AOC, including, but not limited to, relocating tenants based on the results of the Risk Assessment. In addition, EPA reserves all rights it may have to undertake response actions at any time and to perform any and all portions of the work activities which Cargill Falls has failed or refused to perform properly or promptly, and to seek reimbursement from Cargill Falls

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<sup>1</sup> RCRA Section 7003(b) specifies that the penalty amount is \$5,000 and the 1997 Guidance on the Use of Section 7003 of RCRA set forth a maximum penalty of \$5,500. However, the Debt Collection Improvement Act of 1996 (DCIA), 31 U.S.C. Section 3701 and the Civil Monetary Inflation Rule, authorize EPA to adjust the maximum penalty as set forth in the 1997 Guidance with an inflation adjustment factor of 3.29800 for violations occurring on or after November 2, 2015, and assessed on or after December 27, 2023. Thus, together, RCRA and the DCIA authorize a maximum civil penalty of \$18,139 per day for non-compliance with the requirements of this Order.




for its costs or seek any other appropriate relief.

Notwithstanding any other provision of this AOC, EPA shall retain all of its information gathering, entry, inspection, and enforcement authorities and rights under any applicable law, regulation, or permit.

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Carol Tucker, Acting Director  
Enforcement and Compliance Assurance Division  
EPA Region 1

Dated by Electronic Signature



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Leanne Parker  
Historic Cargill Falls Mill, LLC

03.20.2024  
Date