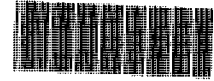


US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MA 02114-2023



SDMS DocID

285170

URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

September 20, 2007

Brian Turcott, Esq.
Deputy Regional Environmental Counsel
Region Environmental Office, Eastern Region
Department of the Air Force
Regional Counsel, Eastern Region
60 Forsyth Street, SW, Suite 8M80
Atlanta, GA 30303-3416

Re: Notice of Potential Liability for Centredale Manor Restoration Project Superfund Site,
North Providence, Rhode Island

Dear Mr. Turcott:

This letter serves to formally notify the United States Department of the Air Force of the potential liability which it has or may have incurred with respect to the Centredale Manor Restoration Project Superfund Site in North Providence, Rhode Island ("Site"). In addition, this letter requests that you pay certain costs related to the Site and that you prepare to participate in the conduct or financing of certain clean-up activities at the Site.

NOTICE OF POTENTIAL LIABILITY

The U.S. Environmental Protection Agency ("EPA") has documented the release or threatened release of hazardous substances, pollutants or contaminants at the Site. EPA has spent and is considering spending additional public funds on actions to investigate and control such releases or threatened releases. Unless EPA reaches an agreement under which a responsible party or parties such as yourself will properly perform or finance such actions, EPA may itself perform these actions or order responsible parties to perform these actions pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 *et seq.* ("CERCLA").

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a), and other laws, responsible parties may be obligated to undertake actions deemed necessary by EPA to protect the public health, welfare or environment. Responsible parties may also be liable for all costs incurred by the government in responding to any release or threatened release at the Site.

Such costs may include, but are not limited to, expenditures for investigation, planning, clean-up response and enforcement activities. In addition, responsible parties may be required to pay damages for injury to, destruction of, or loss of natural resources, including the costs to assess such damages.

Responsible parties under CERCLA include persons who are current or former owners and/or operators of a site, persons who arranged for disposal of hazardous substances at a site, or persons who accepted hazardous substances for transport to a site selected by such persons.

EPA has evaluated a large body of evidence in connection with its investigation of the Site, including witness interviews; written statements and depositions from persons familiar with activities at the former chemical and drum refurbishing companies that operated at the Site; and responses to CERCLA Section 104(e) information requests. Based on this evidence, EPA has information indicating that you are a potentially responsible party ("PRP") with respect to this Site. Specifically, EPA has reason to believe that you arranged by contract, agreement or otherwise for disposal or treatment, or arranged with a transporter for transport for disposal or treatment of hazardous substances found at the Site.

By this letter, EPA notifies you of your potential liability with regard to this matter. EPA also encourages you, as a PRP, to reimburse EPA for the costs incurred to date as set out below, and to prepare to voluntarily perform or finance future response activities which EPA determines are necessary to address the contamination at the Site.

DEMAND FOR PAYMENT OF COSTS

In accordance with CERCLA and other authorities, EPA has undertaken certain actions and incurred costs in response to conditions at the Site. These response actions are described below. The costs to date associated with these actions are approximately \$17.5 million, excluding interest. EPA anticipates that it will expend additional funds for response activities at the Site under the authority of CERCLA and other laws, including those response activities described below.

In accordance with Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), demand is hereby made for payment of the above amount, and all interest authorized to be recovered under that Section or under any other provisions of law. Demand is also hereby made under these authorities for payment of all future costs, and interest thereon, that EPA may accrue in regard to the Site.

RESPONSE ACTIVITIES AT THE SITE

EPA has conducted or is planning in the future to conduct the following activities at the Site:

1. Previous Site activities:

Previous activities by EPA

- established site security;
- restricted access to contaminated soils;
- conducted certain characterization activities to assist in determining the extent of contamination at the Site;
- installed one and partially installed a second interim cap over two contaminated soil areas at the Site;
- conducted an Engineering Evaluation/Cost Analysis for addressing the breached Allendale Dam and contaminated soil and sediment on residential-use properties; and
- conducted a remedial investigation to identify the characteristics of the Site, to define the nature and extent of soil, sediment, air, surface water and ground water contamination at the Site, and to characterize the risk posed by the Site.

Previous activities by PRPs

- completed installation of a second interim cap over a contaminated soil area at the Site;
- completed the restoration of the Allendale Dam;
- sampled, analyzed, excavated and disposed of contaminated soils and sediments located in areas accessible by residential and recreational users; and
- completed the reconstruction of the tail-race, including the construction of a cap over contaminated soil and sediment and construction of a drainage swale to prevent migration.

2. Current Site activities:

Current activities by EPA

- a feasibility study to evaluate a number of different means for addressing the contamination at the Site and the risk posed by that contamination.

Current activities by PRPs

- performance of studies and investigations to assist EPA in its analysis of the conditions that would potentially result from the removal of the Allendale and Lyman Mill Dams.

3. Future Site activities:

Future work at the Site may include removal actions to address any remaining sources of contamination. Future work shall also include the design and implementation of the remedial action to be selected and approved by EPA for the Site and any operation, maintenance and monitoring activities necessary at the Site.

In addition to those activities enumerated above, EPA may, pursuant to its authorities under CERCLA and other laws, decide that other studies or clean-up activities are necessary to protect public health, welfare or the environment.

FUTURE SPECIAL NOTICE AND NEGOTIATION MORATORIUM

At an appropriate point in the future, EPA will send to you, or a person you designate to represent you, a notice informing you that one or more of the above activities is pending and that your cooperation is being requested to negotiate an agreement to perform or finance those activities.

This forthcoming notice will tell you whether EPA has decided to use the "Special Notice" procedures pursuant to CERCLA Section 122(e), 42 U.S.C. § 9622(e), to formally negotiate the terms of a consent order or consent decree to conduct or finance response activities at the Site. If EPA does not use Section 122(e) Special Notice procedures, the notice will explain to you why EPA has determined that those procedures are not appropriate for this Site.

If EPA chooses to employ the Special Notice procedures under Section 122(e) of CERCLA, that notice will commence formal negotiations between EPA and the PRPs. This notice will also trigger a moratorium on certain EPA activities at the Site. The purpose of the moratorium is to provide a period of time when PRPs and EPA may negotiate a settlement.

INFORMATION TO ASSIST POTENTIALLY RESPONSIBLE PARTIES

SITE INFORMATION

In order to encourage you to meet with other PRPs, the following information has been enclosed with this letter:

1. A list of contacts for PRPs previously identified for this Site (Enclosure A).
2. An evidentiary summary which sets forth the documentary evidence which indicates, along with other investigatory information gathered by EPA, that you are a PRP for this Site (Enclosure B).
3. A compact disk set (with user manual) that contains evidentiary documents including responses to EPA's information requests; deposition transcripts; and summaries of interviews or written statements from former employees of the companies that previously operated at the Site (Enclosure C). EPA is in the process of updating the disk with documents issued or received since June 2003 and will provide copies to all of the PRPs upon completion.
4. A compact disk set that contains that portion of the ongoing administrative record file that is not available on EPA's website (Enclosure D).

ADMINISTRATIVE RECORD

In accordance with Section 113(k) of CERCLA, EPA must establish an administrative record containing the documents used by EPA to select the appropriate response actions for the Site.

The administrative record file for past response actions is available to the public for inspection at:

EPA Records Center
1 Congress Street
Boston, MA 02114-2023
Telephone No. 617-918-1440.

Please call the EPA Records Center at (617) 918-1440 for current hours and directions.

This administrative record file is also available at North Providence Union Free Library, 1810 Mineral Springs Ave., North Providence RI 02911 and Marion J. Mohr Memorial Library, 1 Memorial Avenue, Johnston, RI 02919.

In addition, this administrative record file is available at
<http://www.epa.gov/region01/superfund/resource/centredale.htm>.

In most cases, EPA seeks an active dialogue with PRPs regarding the search for additional PRPs. If you have evidence regarding the liability of any party for response actions at the Site which has not already been provided to EPA, you should provide that information no later than thirty (30) days from the date of this letter. In addition, if you are interested in participating in the search for additional PRPs, you should contact members of the EPA case team, listed below, for guidance on how you can best target your efforts. You should note that any evidence which you gather and offer to EPA regarding other PRPs will be subject to independent evaluation by EPA. Therefore, this evidence must be reliable and sufficiently detailed to be verified by EPA.

ORPHAN SHARE INFORMATION

Pursuant to the Superfund Reforms, when EPA enters into certain settlements, EPA may compensate settlors for a portion of the shares specifically attributable to insolvent and defunct PRPs ("orphan share"), if any. EPA believes that there may be PRPs at this site who are insolvent or defunct. If in the future you, either individually or with other PRPs, enter into a cost recovery or RD/RA settlement with EPA and provide sufficient information about the existence, liability, and relative shares of responsibility of insolvent and defunct PRPs, EPA will analyze the information and determine whether to consider the shares of these parties in the amount of past costs and future oversight costs which EPA will seek to recover in such settlement.

STEERING COMMITTEE

EPA recommends that all PRPs form a steering committee to negotiate on behalf of the entire group of PRPs, and to otherwise pursue the interests of the PRPs. Establishing an effective steering committee, which represents the different interests of the PRPs at the Site, is a critical component of the negotiation process.

EPA recognizes that the organization of a steering committee and the allocation of responsibility among PRPs may be difficult. If PRPs are unable to organize an effective steering committee or to reach consensus among themselves, we encourage the use of the services of a neutral third party to facilitate negotiations. If requested, EPA can provide a list of experienced third-party neutrals and help arrange for the PRPs to meet with such a neutral.

TIMING AND FORM OF RESPONSE TO THIS LETTER

As a PRP, you should notify EPA in writing within 30 days from the date of this letter of your receipt of this letter, and your willingness to join the other PRPs in addressing the contamination at the Site, and in paying EPA's outstanding response costs set out in this letter. Your response should indicate the appropriate name, address, and telephone number for further contact with you. If you are already involved in discussions with state or local authorities, engaged in voluntary clean-up action, or involved in a lawsuit regarding this Site, you should continue such activities as you see fit. This letter is not intended to advise you or direct you with respect to any such activities. EPA requests that you report the status of such Site-related activities in your response to this letter.

Your response letter should be sent to:

Anna Krasko
U.S. Environmental Protection Agency
Office of Site Remediation and Restoration
1 Congress Street, Suite 1100 (HBO)
Boston, MA 02114-2023

If EPA does not receive a timely response to this letter, EPA will assume that you do not wish to negotiate a resolution of your liabilities in connection with the Site and that you have declined any involvement in performing the response activities, and paying outstanding costs.

If you have questions regarding the Site or this notice letter, please contact Anna Krasko at (617) 918-1232. If you have an attorney representing you in this matter, please direct his or her questions to Eve Vaudo of the EPA Office of Environmental Stewardship at (617) 918-1089.

The factual and legal discussions in this letter are intended solely to provide notice and information, and such discussions are not to be construed as a final agency position on any matter set forth herein. Due to the seriousness of the environmental and legal problems posed by conditions at the Site, EPA urges that immediate attention and a prompt response be given to this letter.

Sincerely,


James T. Owens, III, Director
Office of Site Remediation and Restoration

Enclosures

cc: Joshua Levin, USDOJ
Patty Fairweather, RIDEM Legal Services
Louis Maccarone, RIDEM Remedial Project Manager
Eve Vaudo, EPA Office of Environmental Stewardship
Anna Krasko, EPA Remedial Project Manager ✓
Jim Murphy, EPA Community Involvement Coordinator
Bruce Marshall, Chief, Search & Cost Recovery Section

Enclosure A

September 2007

CENTREDALE MANOR RESTORATION PROJECT SUPERFUND SITE

1. American Mineral Spirits Company

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2. Ciba Specialty Chemicals Corporation

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R. Howard Grubbs, Esq.
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3. CNA Holdings, Inc.

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(F): (757) 259-3838
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4. ConocoPhillips Company

Stephen P. Chung, Esq.
Counsel
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Ms. Willette A. DuBose
Senior Legal Assistant
ConocoPhillips Company
Legal-ML 1116
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5. Cranston Print Works Company

Steven M. McInnis, Esq.
38 Bellevue Avenue
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(F): (401) 841-8555
steve@mcinnislaw.com

6. Crown-Metro, Inc.

Knox L. Haynsworth, III, Esq.
Brown, Massey, Evans, McLeod & Haynsworth, LLC
P.O. Box 2464
Greenville, SC 29602
(P): 864-271-7424
(F): 864-242-6469

7. Eastern Color & Chemical Company

Gregory L. Benik, Esq.
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Mr. Barry S. Shepard
President
Eastern Color & Chemical Company
35 Livingston Street
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(P): (401) 331-9000
(F): (401) 331-2155

8. Eli Lilly and Company

Jerome I. Maynard, Esq.
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Chicago, IL 60606
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(F): (312) 627-2302
jmaynard@dykema.com

9. Emhart Industries, Inc.

Jerome C. Muys, Jr., Esq.
Sullivan & Worcester
1666 K Street, N.W.
Washington, DC 20006
(P): 202-370-3920
(F): 202-293-2275
jemuys@sandw.com

10. New England Container Company, Inc.

Kirstin M. Etela, Esq.
Robinson & Cole LLP
695 East Main Street
Stamford, CT 06904-2305
(P): 203-462-7534
(F): 203-462-7599
ketela@rc.com

11. Northeast Products Company, Inc.

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(F): 401-277-9600
acallam@haslaw.com

12. Organic Dyestuffs Corporation

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13. Refinity Corporation

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14. Sequa Corporation

Gary Donner, Esq.
Robertson, Freilich, Bruno & Cohen, LLC
The Legal Center
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15. The Original Bradford Soap Works, Inc.

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(F): 401-276-6611
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16. Teknor Apex Company

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Mr. David F. Yopak
Director of Environmental, Health and Safety
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(F) 401-725-0978
dyopak@teknorapex.com

17. THBC, Inc.

Mr. Charles E. Bradley
President
THBC, Inc.
c/o Stanwich Partners, Inc.
62 Southfield Avenue
Stamford, CT 06902

Scott Junkin, Esq.

18. United States Department of the Navy

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Department of the Navy
Office of the General Counsel
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Environmental Defense Section
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Enclosure B

For Settlement Purposes Only

CENTREDALE MANOR RESTORATION PROJECT SUPERFUND SITE

**United States Department of the Air Force
Otis Air Force Base
Massachusetts Military Reservation**

**Contact: Brian Turcott
Deputy Regional Environmental Counsel
Regional Environmental Office, Eastern Region
Department of the Air Force
Regional Counsel, Eastern Region
60 Forsyth Street, SW, Suite 8M80
Atlanta, GA 30303-3416**

Evidentiary Summary

The United States Department of the Air Force operated the Otis Air Force Base at the Massachusetts Military Reservation in Massachusetts from approximately the 1950s to approximately 1973 when the base was shifted to the Otis Air National Guard Base. The Otis Air Force Base was used for training, military aircraft operations and maintenance.

New England Container Company, Inc. ("NECC") operated a drum refurbishing business at 2074 Smith Street in North Providence, Rhode Island from approximately 1952 to approximately mid-1971. This property is now part of the Centredale Manor Restoration Project Superfund Site ("Site"). EPA has requested and received information from NECC about its operations. In addition, EPA personnel have interviewed many former employees of NECC. One of the former NECC employees interviewed as part of this investigation was employed by NECC from about 1956 to about 1969 and drove a truck for about six of those years. According to a signed statement dated October 27, 2000, this individual stated that he picked up approximately 2,500 fifty-five gallon barrels with turbine oil residues from the Otis Air Force Base on one occasion in the 1960s. This information was confirmed in a subsequent interview dated December 11, 2001 and again in a signed statement dated August 14, 2002. During a deposition taken of this individual in a lawsuit related to the Site, this individual confirmed that he hauled approximately 2,500 barrels from Otis Air Force Base and took them to the Site (see deposition transcript, dated October 1, 2002, at p. 49, in Russell-Stanley Holdings, Inc. v. Vincent Buonanno, Civ. Act. No. 01CV8218.) This information was again confirmed at a related insurance trial (see testimony dated September 14 and 15, 2006, at p. 84, in Emhart Industries v. Home Insurance Co., Civ. Act. No. 02-053S).

NECC's refurbishing operations resulted in contamination at the Site. NECC received drums by truck. The drums were then unloaded and stacked on the ground. The contents of some of the drums leaked onto the ground. Drums were then placed upside down on a conveyor belt inside a furnace. The drum contents either drained into a pit located under the conveyor belt or were burned out. Ash from the incineration process either fell into the pit or was swept into the pit. (The liquid contents of some drums may have been emptied into other drums or onto the ground before being placed on the conveyor belt.) The contents of the pits were emptied periodically into drums. Those drums or the contents of those drums were then taken to an area south of the facility (but still within the Site property) and dumped. Residents living near the Site observed the dumping of drums in this area. In addition, residents observed bulldozers burying drums into the ground.