

US EPA ARCHIVE DOCUMENT

Superfund Records Center
SITE: Centredale
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
1 Congress Street, Suite 1100
BOSTON, MA 02114-2023



SDMS DocID 449072

January 20, 2009

Jerome C. Muys, Jr., Esq.
Jeffrey M. Karp, Esq.
Sullivan & Worcester
1666 K Street, NW
Washington, DC 20006

Re: Centredale Manor Restoration Project Superfund Site
North Providence, Rhode Island

Dear Jerry and Jeff:

I am writing in response to your letter dated December 30, 2008 concerning the disposal of investigation-derived waste ("IDW") generated during the monitoring well installation and subsequent groundwater sampling conducted by Loureiro Engineering Associates, Inc., on behalf of Emhart Industries, in February 2008. In that letter you dispute EPA's conclusion that the IDW must be disposed of as F020 waste. For the reasons set forth below, and based on information known at this time, EPA is characterizing Centredale Manor Site waste as F020 waste and requests that you dispose of the IDW accordingly.

As your letter explains, the F020 waste code is intended for wastes from the production or manufacturing use of trichlorophenol ("TCP"). See 40 C.F.R. §261.31(a). Emhart has provided EPA with evidence supporting the conclusion that Metro-Atlantic used TCP to manufacture hexachlorophene at the Centredale Manor Site. In particular, Emhart deposed Thomas Cleary on February 10, 2003 in Emhart Industries v. Home Insurance Company, et al. (Civ. Act. No. 02-053S) ("Deposition"). During that deposition, Mr. Cleary explained that he assisted Metro-Atlantic with the process the company used to manufacture hexachlorophene. See Deposition, pages 32-37. He stated specifically that impure TCP was used in the manufacturing process. See Deposition, pages 50-52. Furthermore, Mr. Cleary provided at the deposition a copy of the "bill of materials" dated June 8, 1964 for the purification of the TCP used to manufacture hexachlorophene which was put together by George Huse, the Metro-Atlantic employee who implemented and operated the hexachlorophene manufacturing operation. See Deposition, pages 48-51 and Exhibit 8. The bill of materials dated June 8, 1964 includes TCP in the list of materials. Contrary to your letter, EPA has not "presumed" that TCP

was used at the Centredale Manor Site. Rather, we have been given explicit evidence to support that finding.

The crux of Emhart's argument, as presented in your letter, is that the composite soil sample analyzed by Emhart revealed significant concentrations of dioxin and furan congeners unrelated to a TCP operation and more compatible with the pattern one would expect from a barrel reconditioning operation. The fact that there is an additional source of the contamination does not remove the F020 designation. To the contrary, when listed hazardous waste is mixed with non-hazardous waste, it remains a listed waste. See 40 C.F.R. 261.3(a)(2)(iv).

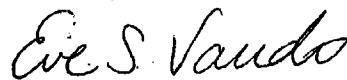
In 2001, EPA's contractor disposed of waste generated from the installation of monitoring wells as F027 waste. Emhart and a number of the other potentially responsible parties subsequently requested that they be permitted to dispose of Centredale Manor Site waste as non-listed waste and presented a credible argument in support of that request. Based on the information known at the time, EPA permitted the disposal pursuant to correspondence dated December 19, 2002. Battelle then acted accordingly and disposed of IDW generated from sampling events in 2005 as non-listed waste. Since that time, we have further evaluated the existing information, including sworn statements from Mr. Cleary about the use of TCP at the Site, and have revised our position.

The IDW generated by Emhart in February 2008 must be removed from the Centredale Manor Site as soon as possible and handled under the F020 waste code. Please let me know when you expect that the drums will be removed from the Site.

Your December 30, 2008 letter does not indicate whether the IDW has undergone testing to determine whether it exhibits any of the characteristics set forth in Subpart C of 40 C.F.R. § 261. Please provide us with the results of any such testing.

Please call me at (617) 918-1089 if you have any questions.

Sincerely,



Eve Vaudo

cc: Louis Maccarone, RIDEM
Anna Krasko, EPA
Gretchen Muench, EPA