

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

8487

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

Emhart Industries, Inc.
c/o CT Corporation System
One Commercial Plaza
Hartford, CT 06103

Re: **NOTICE OF POTENTIAL LIABILITY FOR CENTREDALE MANOR
SUPERFUND SITE, NORTH PROVIDENCE, RHODE ISLAND**

Dear Sir/Madam:

This letter serves to notify you of potential liability regarding the Centredale Manor Superfund Site, North Providence, Rhode Island ("Site"), as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9607(a). In addition, this letter requests that you pay certain costs related to the Site and that you participate in conducting or financing certain clean-up activities at the Site.

NOTICE OF POTENTIAL LIABILITY

The United States Environmental Protection Agency ("EPA") has documented the release or threatened release of hazardous substances or pollutants or contaminants at the Site, which is located in North Providence, Rhode Island. The main portion of the Site is known as 2072 and 2074 Smith Street (or, plat 14, lots 200 and 250). The Site extends on the flood plain of the Woonasquatucket River from the main portion of the Site south to the Allendale Dam. Currently, two high rise buildings (Centredale Manor and Brook Village) are located on the Site. In addition to the buildings, the Site is covered by roadway and parking lots. On the eastern portion of the Site is a drainage swale that begins near the northern portion of the Site and extends south, then curves to the west and discharges into a wooded wetland south of the Site and eventually into the Woonasquatucket River. The Site consists of all contaminated areas within this area as well as any other location to which contamination from that area has come to be located, or from which that contamination came.

Toll Free • 1-888-727-7441

Internet Address: <http://www.epa.gov/region1>

This document is printed on recycled paper with vegetable-based ink. Recycled paper is made from 100% post-consumer waste.

US EPA ARCHIVE DOCUMENT

Hazardous substances involved in the release or threat of release at the Site include, but are not limited to 2,3,7,8 -Tetrachlorodibenzo-*p*-Dioxin ("dioxin") and hexachlorophene; pesticides; volatile organic compounds ("VOCs"); and; semivolatile organic compounds ("SVOCs"). EPA has spent or is considering spending additional public funds on actions to investigate and control such releases or threatened releases at the Site. Unless a potentially responsible party ("PRP") or parties commit to properly performing or financing such actions, EPA may perform these actions pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604.

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a), and other laws, liable parties may be obligated to implement response actions deemed necessary by EPA to protect public health, welfare, or the environment and may be liable for all costs incurred by the Government in responding to any release or threatened release at the Site. Such actions and costs may include, but are not limited to, expenditures for investigations, planning, response, oversight, and enforcement activities.

Responsible parties under CERCLA include current and former owners and operators of the Site, persons who arranged for disposal or treatment of hazardous substances found at the Site (often called "generators"), and persons who accepted hazardous substances for transport to the Site (often called "transporters").

EPA has evaluated evidence gathered during investigations of the Site. Based on this evidence, EPA has information indicating that you are a potentially responsible party under Section 107(a) of CERCLA with respect to the Site. Specifically, EPA has reason to believe that Emhart Industries, Inc., is a successor to the liability of a chemical company which operated at the Site. By this letter, EPA notifies you of your potential liability and urges you to voluntarily perform or finance those response activities that EPA determines are necessary 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. EPA's approximate costs as of September 30, 1999, are \$947,140.89, excluding interest. The costs to date of the response actions performed at the Site through EPA funding is approximate and may not fully be fully reflective of total costs until all contractor costs have been submitted and approved by EPA. 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.

In the event the addressee of this notice intends or has already filed for dissolution or reorganization under bankruptcy laws, you are hereby requested to include EPA-Region I, and the United States Department of Justice on any mailing or notice lists used in that proceeding. The United States reserves the right to file a proof of claim or application for reimbursement of administrative expenses in such a proceeding.

OUTLINE OF SITE RESPONSE ACTIVITIES

In accordance with CERCLA and other authorities, EPA has undertaken certain actions and incurred certain costs in response to conditions at the Site. These response actions have included conducting site assessments as well as other investigations which have revealed the presence of hazardous substances at the Site.

1. Completed Removal Actions

Due to the presence of hazardous substances at the Site, and in light of other conditions, EPA has determined that there may be an imminent and substantial endangerment to public health, welfare, or the environment. In response, EPA has conducted the following time-critical removal activities at the Site:

- established site security;
- restricted access to contaminated soils;
- conducted certain characterization activities to assist in determining the extent of contamination at the Site;
- entered into an Inter-Agency Agreement with the Army Corps of Engineers to complete a Flood Evaluation Study of the Site and surrounding area, provide flood control options and designs, and design interim soil caps for specific areas of the Site; and
- installed one and partially installed a second interim cap over two contaminated soil areas at the Site.

2. Upcoming Removal Actions

EPA anticipates completing the required time-critical removal activities in the spring of 2000. The activities left to complete are:

- completing the second interim soil cap described above; and
- implementing flood control measures recommended by the Army Corps of Engineers

3. Ongoing Engineering Evaluation and Cost Analysis

Additionally, EPA is in the process of conducting Engineering Evaluation and Cost Analysis ("EE/CAs") for two non-time critical removal actions at the Site:

- The first EE/CA will address contaminated soils in the primarily residential parcels located in the floodplain of the Woonasquatucket River southerly from Route 44 (sampling analysis currently available shows that impacted residential parcels at the Site are primarily on the East side of the Allendale Pond).
- The second EE/CA will address contaminants in the Woonasquatucket River sediments and soils in its floodplain, including but not limited to the Allendale Pond and the Lymansville Pond areas.

4. Ongoing Remedial Investigation

The Site was recently listed on the National Priorities List ("NPL"). Therefore, EPA is also conducting the following response activities at the Site in anticipation of a possible remedial action:

- a remedial investigation to identify the characteristics of the Site, to define the nature and extent of soil, air, surface water, and ground water contamination at the Site, and to characterize the risk posed by the Site.

INVITATION TO PERFORM SITE RESPONSE ACTIVITIES

Before EPA spends additional public funds to undertake removal activities at the Site, EPA urges you to voluntarily perform or finance the upcoming removal activities outlined in Section 2., above, which EPA has not already completed. Any such work performed by you in your capacity as a PRP must be conducted pursuant to an administrative order and an EPA-approved workplan as authorized by Section 106(a) of CERCLA, 42 U.S.C. § 9606(a). Prior to final issuance of such an order, a draft order will be sent to you or your representative for review and comment. Enclosed herewith is a copy of a summary of a generic Scope of Work. This document should provide you with an understanding of the types of plans and activities typically required by such an order.

Be advised that even if you do not indicate a willingness to perform or finance necessary response actions, EPA may order you to undertake such actions under Section 106 of CERCLA, 42 U.S.C. § 9606. Failure to comply with a Section 106(a) administrative order may result in a fine of up to \$27,500 per day under Section 106(b) or imposition of treble damages under Section 107(c)(3) of CERCLA. Further, you may be held liable under Section 107(a) for the cost of the response activities EPA performs at the Site and for any damages to natural resources. In addition, by virtue of Section 113 of CERCLA, 42 U.S.C. § 9613, other PRPs who agree to perform the necessary response action may seek contribution protection.

A Notice of Potential Liability has also been sent to the following parties:

Brook Village Associates Limited Partnership:

c/o Colburn T. Cherney
Ropes & Gray
One Franklin Square
1301 K Street, NW, Suite 800 East
Washington, D.C. 20005-3333
PH 202-626-3900
FAX 202-626-3961

and

c/o Howard Castleman
Roche, Carens & DeGiacomo, P.C.
99 High Street
Boston, MA 02110
PH 617-457-4000
FAX 617-482-3868

Centerdale Manor Associates Limited Partnership (C/S Housing Associates):

c/o Leonard H. Freiman
Goulston & Storrs, A Professional Corporation
400 Atlantic Avenue
Boston, MA 02110-3333
PH 617-482-1776
FAX 617-574-4112

Centerdale Manor Associates Limited Partnership (Centerdale Associates):

c/o Richard J. Welch
Moses & Alfonso, Ltd.
170 Westminster Street, Suite 201
Providence, RI 02903
PH 401-453-3600
FAX 401-453-3604

New England Container Company, Inc.:

c/o Deming E. Sherman, Esq.
Edwards & Angell, LLP
2800 BankBoston Plaza
Providence, RI 02903-2499
PH 401-274-9200
FAX 401-276-6611

Crown Metro, Inc.
c/o Ivan E. Block, Registered Agent
315 Echelon Road
Donaldson Center
Greenville, SC 29605-5234

To date, Brook Village Associates Limited Partnership, Centerdale Manor Associates Limited Partnership, and New England Container Company, Inc., have declined to perform or fund any response activities at the Site. They have also declined to reimburse EPA for its past costs. You or your attorney may wish to discuss the matters set forth in this letter with the above-referenced parties or their attorneys.

PRP RESPONSE AND EPA CONTACT

You should contact EPA by the close of business on Friday, March 3, 2000, to indicate your willingness to perform or finance the response activities outlined above. If EPA does not receive a response within that time, EPA will assume that you do not wish to negotiate a resolution of your liabilities in connection with the response and that you have declined any involvement in performing response activities. Be advised, however, that liability under CERCLA is joint and several; therefore, each PRP is potentially liable for undertaking all response actions or reimbursing the Government for the entire amount of its response costs.

Please provide the name, address, and telephone number of a designated contact for future communications. Your written response, including any technical comments or questions concerning the proposed response activities, should be directed to the EPA On-Scene Coordinator (OSC) for the Site:

Ted Bzenas, On-Scene Coordinator
U.S. Environmental Protection Agency, Region 1 - New England
Site Evaluation and Response Section II
1 Congress Street Suite 1100, Mail Code HBR
(617) 918-1230

Legal questions and all communications from counsel should be directed to:

Catherine Garypie, Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1 - New England
Office of Environmental Stewardship
1 Congress Street Suite 1100, Mail Code SES
Boston, Massachusetts 02203
(617) 918-1540

DECISION NOT TO USE SPECIAL NOTICE

Under Section 122(e) of CERCLA, 42 U.S.C. § 9622(e), EPA has the discretionary authority to invoke special notice procedures to formally negotiate the terms of an agreement between EPA and PRPs to conduct or finance response activities. The use of special notice procedures triggers a moratorium on certain EPA activities at the Site while formal negotiations between EPA and the PRPs are conducted.

Due to the exigencies posed by conditions present at the Site, removal activities must be conducted as expeditiously as possible. EPA has therefore decided not to invoke the Section 122(e) special notice procedures with respect to CERCLA removal actions at this Site. Nonetheless, EPA is willing to discuss settlement opportunities without invoking a moratorium, but will initiate the response action as planned if such discussions do not lead to settlement expeditiously.

ADMINISTRATIVE RECORD

Pursuant to Section 113(k) of CERCLA, 42 U.S.C. § 9613(k), EPA has established an administrative record containing documents that form the basis of EPA's decision on the selection of response actions for the Site. The administrative record files may be inspected and comments may be submitted by contacting the OSC for the Site: Ted Bazen (617) 918-1230.

SITE ACTIVITY OUTSIDE EPA ACTIONS

If you are already involved in discussions with state or other local authorities or involved in a lawsuit regarding this Site, you should continue such activities as you see fit. This letter is not intended to advise or direct you to restrict or discontinue any such activities. However, you are advised to report the status of any such discussions or actions in your response to this letter and to provide a copy of your response to any other parties involved in those discussions or actions.

PURPOSE AND USE OF THIS NOTICE LETTER

The factual and legal discussions contained in this letter are intended solely to provide notice and information. Such discussions are not intended to be, and cannot be, relied upon as EPA's final 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 you give immediate attention and provide a prompt response to this letter.

By copy of this letter EPA is notifying the State of Rhode Island and the Natural Resources Trustees of EPA's intent to perform, or to enter into negotiations for the performance or financing of, response actions at the Site.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patricia L. Meaney".

Patricia L. Meaney, Director
Office of Site Remediation and Restoration

Enclosure

cc: Jerome C. Muys, Jr.
Swidler Berlin Shereff Friedman
3000 K Street, NW, Suite 300
Washington, DC 20007-5116

bcc: Ted Bzenas, EPA On-Scene Coordinator - OSRR
Sharon Fennelly, EPA Enforcement Coordinator - OSRR
Donna Murray, EPA Enforcement Coordinator - OSRR
Holly Inglis, EPA Administrative Records Coordinator - OSRR
Catherine Garypie, EPA Senior Enforcement Counsel - OES
Cheryl O'Halloran, EPA CERCLIS Coordinator - OSRR
Andrew Raddant, Acting Environmental Officer, U.S. Department of the Interior
Ken Finkelstein, National Oceanic and Atmospheric Administration
Matthew DeStefano, RIDEM

SUMMARY OF GENERIC SCOPE OF WORK

This summary of the Generic Scope of Work is provided for informational purposes only. More detailed provisions will be set forth in the site-specific Scope of Work. Provisions may vary from site to site.

When EPA determines that a Potentially Responsible Party (PRP) has the ability to promptly and properly prevent, mitigate, or eliminate the threats posed by hazardous substances at the Site, EPA may issue an Administrative Order (Order) to such party (the Respondent) with an attached Scope of Work (SOW). The Order and SOW, among other things, compel the Respondent to develop a plan to clean the Site. The components of the plan (also called a "deliverable") must be submitted to EPA for approval before implementation. Detailed instructions for generating each component shall be provided in the SOW. The plan shall consist of the components listed below.

) Site Security - The Respondent shall provide on-site security service. Site security shall be maintained until EPA determines the threats posed by conditions at the Site are eliminated or substantially mitigated.

) Notification of Contractor Selection - The Respondent shall notify EPA of the proposed cleanup contractor selected to perform work required under the Order.

) Site-Specific Health and Safety Plan (HASP) - The Respondent shall develop and implement a HASP for all activities to be conducted at the Site. The HASP shall be developed to protect all on-site personnel and must comply with all applicable health and safety regulations.

) Quality Assurance Plan (QAP) - The Respondent shall develop a QAP to be utilized in conducting all field and laboratory analysis. The QAP shall ensure that analytical results generated are of known quality.

) Site Assessment Plan (SAP) - The Respondent shall develop a SAP specifying the overall strategy of the field investigative work necessary to characterize site contamination.

) Site Assessment - A Site Assessment shall be conducted following EPA approval of the SAP.

) Site Assessment Report and Cleanup Plan (SAR/CP) - Following completion of the Site Assessment, the Respondent shall develop a SAR/CP that summarizes the Site Assessment and proposes cleanup methods necessary to substantially mitigate and/or eliminate the threats posed by hazardous substances present at the Site.

) Site Cleanup - The Site Cleanup shall be conducted according to the EPA approved Cleanup Plan.

) Completion of Work Report (CWR) - Upon completion of the Site Cleanup, the Respondent shall submit a CWR summarizing the work performed under the Order and SOW and outlining any remaining contamination.

At any time prior to or after the completion of the work specified in this SOW, EPA may determine that additional tasks are necessary in order to achieve the objectives of the Order, the SOW and CERCLA.