UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 23 2000

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Big River Zinc Corp.
32 Loockerman Square
Dover, DE 19901

Re: **SPECIAL NOTICE OF LIABILITY**
Sauget Area 2 Site
Sauget/Cahokia, Illinois

Dear Sir or Madam:

The United States Environmental Protection Agency (U.S. EPA) has undertaken response actions at the Sauget Area 2 Site (the Site, see map appended to Attachment D) pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499 (CERCLA). These actions, which include extensive sampling in and around the Site and the consolidation and capping of wastes found at Sauget Area 2 Site Q, have documented the release or threatened release of hazardous substances, pollutants, and contaminants at the Site. A document referencing the sampling activities and studies which have taken place in Sauget Area 2 Site is referenced in Attachment A. Specific findings from certain of these studies concerning the Site are presented in the proposed Administrative Order on Consent appended hereto as Attachment D.

Additional Response Actions

Unless U.S. EPA determines that a potentially responsible party (PRP) will voluntarily undertake the response action necessary at the Site, U.S. EPA may, under Section 104 of CERCLA, undertake the response action itself and, under Section 107 of CERCLA, seek reimbursement from PRPs of all costs incurred in connection with the action taken. Such costs may include, but are not limited to, expenditures for investigation, planning, response and enforcement activities. Moreover, under Section 106 of CERCLA, U.S. EPA may order responsible parties to implement relief actions deemed necessary by U.S. EPA to protect the public health, welfare or environment from an

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imminent and substantial endangerment because of an actual or threatened release of a hazardous substance from a Facility.

In addition to those further response actions enumerated above, U.S. EPA may, pursuant to its authorities under CERCLA and other laws, determine that other clean-up activities are necessary to protect public health, welfare and the environment.

PRP Determination

Potentially responsible parties (PRPs) under Section 107 of CERCLA include current owners and operators of the Site and former owners and operators of the Site at the time of disposal of hazardous substances, as well as persons who owned or possessed hazardous substances and arranged for disposal, treatment, or transportation of such hazardous substances and persons who accepted hazardous substances for transportation for disposal or treatment to a facility selected by such transporter. U.S. EPA has information indicating that you are a PRP with respect to the Site. A general description of the sources of information regarding PRPs at the Site is provided in Paragraph 1 of Attachment A to this letter. By this letter, U.S. EPA notifies you of your potential liability with regard to this matter and encourages you, as a PRP, to reimburse U.S. EPA for its costs incurred to date and to voluntarily perform or finance the response activities that the U.S. EPA has determined or will determine are required at the Site.

Special Notice and Negotiation

Pursuant to Section 122(e)(1) of CERCLA, U.S. EPA has determined that a period of negotiation may facilitate an agreement between the Sauget Area 2 PRPs and U.S. EPA for implementation or financing of the response action. Accordingly, U.S. EPA is contacting PRPs identified for the Sauget Area 2 Site to resolve their liability with respect to the Site. To assist the PRPs in negotiating with U.S. EPA concerning this matter, attached to this letter is a list of the names and addresses of other PRPs to whom this notification is being sent. It should be noted that inclusion on or exclusion from this list does not constitute a final determination by U.S. EPA concerning the liability of any party for remediation of the Site or for payment of past costs.

Upon your receipt of this Special Notice, you will have a maximum of 60 days to coordinate with any PRPs and to present to U.S. EPA a "good faith offer" to conduct and/or finance the remedial investigation to negotiate the terms of an administrative order on consent. In accordance with the requirements of Section 122(e)(2), during this 60-day

moratorium, U.S. EPA will not commence remedial action at the Site. U.S. EPA may, however, commence any additional studies or investigations authorized under Section 104(b), and take any action at the Site should a significant threat to human health or the environment arise during the negotiation period.

Good Faith Offer

A "good faith offer" as referenced above shall include the following:

* a statement of the PRPs' willingness to conduct or finance a Remedial Investigation and Feasibility Study (RI/FS) which are consistent with the proposed AOC and Statement of Work (SOW) and which provides a sufficient basis for further negotiations in light of U.S. EPA's SOW;

* a detailed response to, and detailed comments, if any, on, the attached proposed AOC and SOW. If your offer contemplates modifications to the AOC or SOW, please make revisions or edits to the enclosed draft and submit a version to U.S. EPA showing any such modifications. Your response should provide reasons for or the basis of major revisions to the attached proposal;

* a demonstration of the PRPs' technical capability to undertake the RI/FS. This includes that the PRPs identify the firm expected to conduct the work, or that the PRPs identify the process they will undertake to select a firm;

* a demonstration of the PRPs' capability to finance the RI/FS;

* a statement of the PRPs' willingness to reimburse U.S. EPA for past response and oversight costs; and

* the name, address, and phone number of the party or steering committee who will represent the PRPs in negotiations.

If U.S. EPA receives from the Sauget Area 2 PRPs within the 60 day calendar period a written "good faith offer" which demonstrates the PRPs' qualifications and willingness to conduct or finance the RI/FS consistent with the attached AOC and SOW, U.S. EPA may extend its moratorium on commencement of the response action work up to an additional 30 calendar days. The purpose of this additional time is to allow the PRPs and U.S. EPA a period of time to finalize the settlement.

If a "good faith" proposal is not received within the initial 60-day moratorium, U.S. EPA, pursuant to Section 122(e)(4), may

proceed to immediately undertake such further action as is authorized by law, utilizing public funds available to the Agency.

Demand for Costs Incurred

As mentioned above, in accordance with CERCLA and other authorities, U.S. EPA has already undertaken certain actions and incurred certain costs in response to conditions at the Site. Certain of these response actions are listed in the document referenced in Paragraph 2 of Attachment A to this letter. As soon as practicable, U.S. EPA will send Respondent(s) a bill for "past response costs" at the Site. U.S. EPA's bill will include an Itemized Cost Summary. "Past response costs" are all costs, including, but not limited to, direct and indirect costs and interest, that the United States, its employees, agents, contractors, consultants, and other authorized representatives incurred and paid with regard to the Site prior to September, 1998. The Agency anticipates expending additional funds for response activities at the Site under the authority of CERCLA and other laws. In accordance with Section 107(a) of CERCLA, demand is also hereby made under these authorities for payment of all future costs that U.S. EPA may accrue in regard to the Site.

PRP List

As stated above, the attached list of the names and addresses of any other PRPs to whom this notification is being sent is provided to assist you in contacting other PRPs in this matter and to negotiate with U.S. EPA. This list is appended as Attachment B to this letter. Information regarding a ranking by volume and nature of substances contributed by each PRP, as contemplated by Section 122(e)(4)(A), is not available at this time. However, the AOC attached hereto as Attachment D sets forth the areas within the Sauget Area 2 Site with which based on available information it is thought each PRP is associated.

Initial Conference

To further facilitate your and any other PRPs' ability to present a "good faith offer" within the 60-day time limit, an initial settlement conference will be held. An agenda indicating the topics for discussion is appended as Attachment C. A draft AOC and a SOW is enclosed as Attachment D.

90 Day Deadline

Except in extraordinary circumstances explained in a written request, no extension to the second 30 day moratorium period

will be granted by U.S. EPA. As stated above, if no agreement can be reached, pursuant to Section 122(e)(4), U.S. EPA may immediately proceed to undertake such further action as authorized by law to conduct a RI/FS at the Site.

U.S. EPA Notification

As a potentially responsible party, you should notify U.S. EPA in writing within 10 days of receipt of this letter of your willingness to participate in negotiations to perform or finance the activities described above. If U.S. EPA does not receive a timely response, U.S. EPA will assume that you do not wish to negotiate a resolution of your potential responsibility in connection with the Site and that you have declined any involvement in performing the response activities.

The response should indicate the appropriate names, addresses including e-mail addresses, and telephone numbers 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 or direct you to restrict or discontinue any such activities; however, you are advised to report the status of those discussions or actions in the response to this letter and to provide a copy of the response to any other parties involved in those discussions or actions. The response letter should be sent to:

G. Marie Watts (SR-6J)
U.S. Environmental Protection Agency
77 W. Jackson Blvd.
Chicago, Illinois 60604

-and-

Mike McAteer (SR-6J)
U.S. Environmental Protection Agency
77 W. Jackson Blvd.
Chicago, Illinois 60604

-and-

Thomas J. Martin (C-14J)
U.S. Environmental Protection Agency
77 W. Jackson Blvd.
Chicago, Illinois 60604

Natural Resource Trustee Notification

By a copy of this letter, U.S. EPA is notifying the State of Illinois and the Natural Resources Trustees, in accordance with Section 122(j) of CERCLA, of its intent to enter into negotiations concerning the conduct of an RI/FS at the Site, and is also encouraging them to consider participation in such negotiations.

Further Information

If you need further information regarding this letter, you may contact Mike McAteer of the Remedial and Enforcement Response Branch at (312) 886-4663. If you have an attorney handling your legal matters, please direct his or her questions to Thomas Martin of the Office of Regional Counsel, U.S. EPA, Region 5, at (312) 886-4273.

We hope that you will give this matter your immediate attention.

Sincerely yours,

Wendy L. Carney, Chief
Remedial Response Branch #1

Enclosures

cc: Thomas V. Skinner, Director
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Brent Manning, Director
Illinois Department of Natural Resources
524 S. 2nd Street
Springfield, IL 62701-9225

Thomas Davis
Office of State Attorney General
500 South 2nd Street
Springfield, IL 62706-1771

ATTACHMENT A

1. The U.S. EPA has evaluated a large body of information and evidence in connection with its investigation of the Site, including:

a. Items/Solid Waste/Drums/Waste Material Located Within Sauget Area 2 Site Q
b. Site Q On-Scene Coordinator's Reports
c. Village of Sauget Treatment Works Total Plant Loadings Forms
d. U.S. EPA/IEPA/Monsanto Sample Results
e. Title Searches
f. Memos Regarding Toxic Waste Disposal Practices in Area
g. CERCLA Section 104(e) Responses
h. CERCLA Section 103(c) Notices
i. Sampling Results for Sauget Area Two Sites R and O
j. Municipal and Industrial Sewer Maps
k. Cerro Copper Products Company v. Monsanto Corporation, Docket No. 92-CV-204, Deposition Transcripts
l. Affidavits of former area employees
m. Sauget & Company Invoices

Based on the above, the U.S. EPA has information indicating that you are a potentially responsible party with respect to this Site. Specifically, the U.S. EPA has reason to believe that you are the owner/operator of the facility, or a former owner/operator of the facility at the time of disposal of hazardous substances at the facility.

2. The U.S. EPA and/or IEPA have conducted sampling/studies at the Site, all summarized in the following data compilation:

a. Sauget Area One and Two Sites, St. Clair County, Illinois, Volume Two: Area Two Data Tables/Maps (Ecology and Environment, February 1998)

3. Response costs associated with the Site have been incurred by the U.S. EPA. The total U.S. EPA cost incurred for the above referenced studies and activities is currently being determined.

Big River Zinc Corp.
32 Loockerman Square
Dover, DE 19901

Fold at line over top of envelope to
the right of the return address

CERTIFIED

Z 199 021 917

MAIL

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write *"Return Receipt Requested"* on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Big River Zinc Corp.
32 Loockerman Square
Dover, DE 19901

4a. Article Number
Z 199 021 917

4b. Service Type
☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

5. Received By: *(Print Name)*

6. Signature: *(Addressee or Agent)*
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8. Addressee's Address *(Only if requested and fee is paid)*

Thank you for using Return Receipt Service.

PS Form **3811,** December 1994

Domestic Return Receipt