REID & PRIEST
40 WEST 57TH STREET
NEW YORK, N.Y. 10019-4097
212 603-2000

EPA Region 5 Records Ctr.
339927

WASHINGTON OFFICE
MARKET SQUARE
701 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004
202 508-4000
TELEX: 440630 RP WASH
FACSIMILE: 202 508-4321

NEW YORK OFFICE
CABLE ADDRESS: "REIDAPT"
TELEX: 7105816721 RDPT NYK
220534 RDPT UK
FACSIMILE: 212 603-2298
DIRECT DIAL NUMBER
(212) 603-6776

New York, New York
May 18, 1994

Mr. Thomas W. Mateer, Chief
Superfund Program Management Branch
U.S. Environmental Protection Agency, Region
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

RECEIVED
MAY 24 1994
SUPERFUND PROGRAM
MANAGEMENT BRANCH

Ms. Marsha A. Adams, 5HSM-5J
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Dear Mr. Mateer and Ms. Adams:

We are chapter 11 bankruptcy counsel to Bulk Materials Investments, Inc. and its subsidiary, Refiners Transport and Terminal Corporation ("Refiners"). We write regarding your Request for Information pursuant to section 104(e) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) for the Stickney Avenue Landfill and the Tyler Street Dump Sites in Toledo, Ohio to Bulk Materials, Inc. ("BMI"), which sought information for these sites for the period 1951 through 1981. BMI and Refiners responded to the Request by letter dated September 29, 1993 from the law firm of Calfee, Halter & Griswold of Cleveland, Ohio.

BMI and Refiners, together with 16 other BMI subsidiaries, filed petitions under Chapter 11 of Title 11 of United States Code (the "Bankruptcy Code") in the United State Bankruptcy Court for the Southern District of New York on August 30, 1991. The cases were assigned Chapter 11 case numbers 91 B 13999 (JLG) through 91 B 14016 (JLG). On the same date, the bankruptcy court issued an order providing for joint administration of these cases , and on May 11, 1992, an order substantively consolidating all 18 Chapter 11 cases.

On May 5, 1992, the bankruptcy court entered an order fixing June 25, 1992 as the last day to file proofs of claims (the "bar date") for claims that arose prior to August 30, 1991. All known creditors of the Chapter 11 debtors received notice of the bar date by mail. The form of the bar date order was approved by the bankruptcy court. Notice was published twice each in a newspaper of national circulation and a trade publication in the Chapter 11 debtors' industry. The United States Environmental Protection Agency, Region 5 ("EPA, Region 5"), was scheduled in Schedule F - Creditors Holding Unsecured Non-Priority Claims filed by BMI and Refiners in the bankruptcy court as having contingent, unliquidated and/or disputed claims. EPA, Region 5, received multiple bar date notices (as well as notices in late 1991 of the commencement of the BMI and Refiners chapter 11 cases). The bar date notice sent and the bankruptcy court order establishing the bar date both state that any claimant whose claim is scheduled as contingent, disputed or unliquidated and who does not timely file a proof of claim is forever barred from asserting a claim against BMI or Refiners or receiving any distribution pursuant to their Chapter 11 plan of reorganization. Additionally, as required by Bankruptcy Rule 2002(j), the United States Attorney for the Southern District of New York received notices of the bar date as well as the commencement of the BMI and Refiners cases. Our records do not indicate that EPA, Region 5 (or any other EPA Region) ever filed a proof of claim. Since the claim of EPA, Region 5 was scheduled as contingent, it received notice of the bar date and did not file a proof of claim, it is forever barred from asserting claims against BMI or Refiners and is not entitled to any distribution under BMI and Refiners' plan. I have enclosed copies of the bar date notice and bar date order.

The bankruptcy court confirmed BMI's (and Refiners') consolidated plan of reorganization on April 13, 1993. Section 1141(d) of the Bankruptcy Code and the provisions of the bankruptcy court order confirming the plan (i) discharge BMI and Refiners from all debts that arose before April 13, 1993, the date of entry of the confirmation order, whether or not a proof of claim based on the debt was filed, (ii) permanently enjoin the enforcement and collection of any discharged liabilities or debts against BMI and Refiners or their respective properties and (iii) permanently enjoin the creation or

enforcement of any liens against BMI or Refiners or their respective properties. The plan has been substantially consummated within the meaning of section 1101(2) of the Bankruptcy Code.

Placed in this posture, EPA, Region 5 is forever barred from asserting its claim, if any, against BMI and Refiners, and is not entitled to any distribution under their Chapter 11 plan. Moreover, the claim of EPA, Region 5, if any, was discharged and EPA, Region 5 is permanently enjoined from enforcing its claim, if any, against BMI and Refiners.

I await any further inquiry you may have regarding this matter.

Very truly yours,

Martin G. Bunin

Enclosures

cc: Jacqueline A. Musacchia, Esq.
Vice President and General Counsel
Bulk Materials, Inc.

Kevin P. Hallquist, Esq.
Calfee, Hatter & Griswold

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: BULK MATERIALS INVESTMENTS, INC., BULK MATERIALS, INC., BULK LEASING, INC., BAYWOOD EXPRESS, INC., BEST TRANSPORT, INC., BULK MAC, INC., BULK SERVICES, INC., BULK STORAGE, INC., CRYOGENIC CARRIERS, INC., FLEET TRANSPORT COMPANY, INC., FLEET TRANSPORT - VA., INC., GYPSUM HAULAGE, INC., MITCHELL TRANSPORT, INC., NORTHEAST BULK CARTAGE COMPANY, NORTHERN OHIO MATERIALS, INC., RAY MOLDER CARRIER CORPORATION, RAY MOLDER, INC., and REFINERS TRANSPORT & TERMINAL CORPORATION, Debtors.	Chapter 11 case nos. 91 B 13999 (JLG) through 91 B 14016 (JLG)

NOTICE OF THE LAST DAY
TO FILE PROOFS OF CLAIM

TO ALL CREDITORS AND ANY PERSON, ENTITY OR GOVERNMENTAL UNIT THAT ASSERTS A CLAIM AGAINST ONE OR MORE OF THE COMPANIES LISTED ABOVE:

NOTICE IS HEREBY GIVEN that the United States Bankruptcy Court for the Southern District of New York entered an order dated May 5, 1992 (the "Bar Order"), requiring all persons and entities who assert a claim that arose on or before August 30, 1991, the date these Chapter 11 cases began, against Bulk Materials Investments, Inc., Bulk Materials, Inc. and any of the other companies listed above (the "Debtors") to file a proof of claim in the manner described below on or before June 25, 1992.

CREDITORS AND OTHER PERSONS AND ENTITIES WHO HAVE ALREADY FILED PROOFS OF CLAIM NEED NOT FILE ANOTHER PROOF OF CLAIM.

Creditors whose claims are listed on the schedule of assets and liabilities (the "Schedule") filed with the Court by the Debtors and whose claims are not listed on the Schedule as "contingent," "unliquidated" or "disputed" and who agree with the amount of their claims as listed are not required to file proofs of claim.

Creditors whose claims are listed on the Schedule and whose claims are not listed in the Schedule as "contingent," "unliquidated" or "disputed", but who disagree with the amount of their claims as listed, must file proofs of claim on or before June 25, 1992.

Conformed copy

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: BULK MATERIALS INVESTMENTS, INC., et al., Debtors.	Chapter 11 case nos. 91 B 13999 (JLG) through 91 B 14016 (JLG)

ORDER FIXING BAR DATE FOR FILING PRE-PETITION CLAIMS

Upon the application (the "Application") of Bulk Materials Investments, Inc. et al., debtors and debtors in possession ("Debtors"), by their attorneys Spengler Carlson Gubar Brodsky & Frischling, dated April 9, 1992, for an order pursuant to Bankruptcy Rule 3003(c)(3) fixing a bar date for the filing of claims arising or accruing prior to August 30, 1991, the date Debtors filed their chapter 11 petitions; upon the notice of the application having been duly served; upon the hearings held before this Court on the application on April 29, 1992 and May 5, 1992; sufficient cause appearing for the relief requested, and upon the due deliberation of this Court, it is

ORDERED that, pursuant to Bankruptcy Rule 3003(c)(3), all entities, including all individuals, partnerships, corporations, estates, trusts, and governmental units which hold claims, as defined in 11 U.S.C. § 101(4), against debtor which arose prior to August 30, 1991, the date on which Debtors

filed their chapter 11 cases, shall file a proof of such claim with the United States Bankruptcy Court for the Southern District of New York on or before June 25, 1992 (the "Bar Date") or mail a proof of claim to Bulk Materials Investments, Inc., Claim Processing Center, P.O. Box 111, Bowling Green Station, New York, New York 10004 so that the proof of claim will be received on or before the Bar Date, provided, however, that:

> (a) Any entity which has already filed a proof of claim in the form and manner required by Bankruptcy Rules 3001, 3002 and 5005,
>
> (b) Any entity whose claim appears on the Schedules of Assets and Liabilities (the "Schedules") filed by Debtors, whose claim is not listed on the Schedules as "disputed," "contingent" or "unliquidated" and who does not dispute the amount of its claim, or
>
> (c) Any entity whose claim is subject to the provisions of 11 U.S.C. § 502(g), (h) or (i)

may, but need not, file a proof of claim or mail a proof of claim to the address set forth above; and it is further

ORDERED that all entities whose claims appear on the Schedules filed by Debtors and are not listed in the Schedules as "contingent," "unliquidated" or "disputed," but who dispute the amount of their claims as listed on the Schedules, must, in order to preserve their right to dispute the amount listed on the Schedules in this case, file their proofs of claim in the United States Bankruptcy Court for the Southern District of New York on or before June 25, 1992 or mail their proofs of claim to the address set forth above; and it is further

ORDERED that each proof of claim shall be filed in substantial conformity with Form No. 10 of the Official Bankruptcy Forms; and it is further

ORDERED that any claim required to be filed pursuant to the provisions of this order and not filed or mailed to the address set forth above so as to be received on or before the Bar Date shall be forever barred from assertion against Debtors, or any of them, and the property of Debtors, or any of them, and the holder of such claim shall be barred from voting on a plan of reorganization or participating in any distribution in these cases; and it is further

ORDERED that, in accordance with Bankruptcy Rule 2002(a)(8) and (k), Debtors

> (1) shall within ten days after entry of this order, send a notice substantially in the form of that annexed to this order (the "Notice") by the first class mail to:
>
> > (a) all persons who have, as of the date hereof, filed notices of appearances with this Court pursuant to section 1109 of the Bankruptcy Code or who have, in writing, prior to the date hereof, requested notice in accordance with Bankruptcy Rule 2002(i),
> >
> > (b) those entities which are listed in the Schedules filed by Debtors,
> >
> > (c) all entities which have filed proofs of claim in Debtors' chapter 11 cases,
> >
> > (d) the Securities and Exchange Commission,
> >
> > (e) the United States Trustee, and,

(f) the United States Internal Revenue Service and the state tax commission or department in each state where Debtors operate and file state tax returns;

(2) shall cause a copy of the Notice to be published on two occasions seven days apart commencing not less than five and not more than ten days after entry of this order, in The Wall Street Journal; and

(3) shall cause a copy of the Notice to be published in in each of the next two issues of Transport Topics appearing after entry of this order for which Debtors can meet the advertising submission deadline; and it is further

ORDERED that Debtors may reimburse Spengler Carlson Gubar Brodsky & Frischling for the expenses of publishing the Notice in The Wall Street Journal and Transport Topics as set forth in this order upon presentation by Spengler Carlson Gubar Brodsky & Frischling to Debtors of copies of the invoices received from those publications together with proofs of payment; and it is further

ORDERED that Debtors shall cause a copy of the Notice to be delivered or mailed to each of their employees on or before May 20, 1992.

Dated: New York, New York
May 5, 1992

/S/ James L. Garrity, Jr.
Honorable James L. Garrity, Jr.
United States Bankruptcy Judge

7186b

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: BULK MATERIALS INVESTMENTS, INC., BULK MATERIALS, INC., BULK LEASING, INC., BAYWOOD EXPRESS, INC., BEST TRANSPORT, INC., BULK MAC, INC., BULK SERVICES, INC., BULK STORAGE, INC., CRYOGENIC CARRIERS, INC., FLEET TRANSPORT COMPANY, INC., FLEET TRANSPORT - VA., INC., GYPSUM HAULAGE, INC., MITCHELL TRANSPORT, INC., NORTHEAST BULK CARTAGE COMPANY, NORTHERN OHIO MATERIALS, INC., RAY MOLDER CARRIER CORPORATION, RAY MOLDER, INC., and REFINERS TRANSPORT & TERMINAL CORPORATION, Debtors.	Chapter 11 case nos. 91 B 13999 (JLG) through 91 B 14016 (JLG)

NOTICE OF THE LAST DAY
TO FILE PROOFS OF CLAIM

TO ALL CREDITORS AND ANY PERSON, ENTITY OR GOVERNMENTAL UNIT THAT ASSERTS A CLAIM AGAINST ONE OR MORE OF THE COMPANIES LISTED ABOVE:

NOTICE IS HEREBY GIVEN that the United States Bankruptcy Court for the Southern District of New York entered an order dated May 5, 1992 (the "Bar Order"), requiring all persons and entities who assert a claim that arose on or before August 30, 1991, the date these Chapter 11 cases began, against Bulk Materials Investments, Inc., Bulk Materials, Inc. and any of the other companies listed above (the "Debtors") to file a proof of claim in the manner described below on or before June 25, 1992.

CREDITORS AND OTHER PERSONS AND ENTITIES WHO HAVE ALREADY FILED PROOFS OF CLAIM NEED NOT FILE ANOTHER PROOF OF CLAIM.

Creditors whose claims are listed on the schedule of assets and liabilities (the "Schedule") filed with the Court by the Debtors and whose claims are not listed on the Schedule as "contingent," "unliquidated" or "disputed" and who agree with the amount of their claims as listed are not required to file proofs of claim.

Creditors whose claims are listed on the Schedule and whose claims are not listed in the Schedule as "contingent," "unliquidated" or "disputed", but who disagree with the amount of their claims as listed, must file proofs of claim on or before June 25, 1992.

NOTICE IS FURTHER GIVEN, THAT ANY CREDITOR, PERSON OR ENTITY WHO FAILS TO FILE A PROOF OF CLAIM ON OR BEFORE JUNE 25, 1992 SHALL BE FOREVER BARRED FROM ASSERTING ITS CLAIM AGAINST THE DEBTORS AND THEIR PROPERTIES, FROM VOTING ON A PLAN OF REORGANIZATION AND FROM RECEIVING DISTRIBUTIONS UNDER THE PLAN OF REORGANIZATION.

THE PROVISIONS OF THE BAR ORDER APPLY TO ALL CLAIMS OF WHATEVER CHARACTER AGAINST THE DEBTORS OR THEIR PROPERTIES, WHETHER SECURED OR UNSECURED, LIQUIDATED OR UNLIQUIDATED, MATURED OR UNMATURED, FIXED OR CONTINGENT, DISPUTED OR UNDISPUTED, LEGAL OR EQUITABLE. THE BAR ORDER DOES NOT APPLY TO ANY CLAIMS THAT AROSE AFTER AUGUST 30, 1991, THE DATE THESE CHAPTER 11 CASES BEGAN.

PROOFS OF CLAIM SHOULD BE FILED ON THE FORM PROVIDED OR CONFORM SUBSTANTIALLY TO OFFICIAL BANKRUPTCY FORM NO. 10. PROOFS OF CLAIM MUST BE MAILED TO AND RECEIVED AT THE FOLLOWING ADDRESS ON OR BEFORE JUNE 25, 1992:

Bulk Materials Investments, Inc.
Claims Processing Center
P.O. Box 111
Bowling Green Station
New York, New York 10004

OR

FILED ON OR BEFORE JUNE 25, 1992 WITH THE CLERK OF THE BANKRUPTCY COURT, UNITED STATES BANKRUPTCY COURT, ALEXANDER HAMILTON CUSTOM HOUSE, ROOM 614, ONE BOWLING GREEN, NEW YORK, NEW YORK 10004-1408.

NOTICE IS FURTHER GIVEN, that the Schedule and copies of the Bar Order are available for inspection by interested parties in the office of the Bankruptcy Clerk at the above address during regular court hours.

Dated: New York, New York
May 5, 1992

BY ORDER OF THE COURT
/s/James L. Garrity, Jr.
United States Bankruptcy Judge

SPENGLER CARLSON GUBAR
BRODSKY & FRISCHLING
Attorneys for the Debtors
520 Madison Avenue
New York, New York 10022
(212) 935-5000

7187b

REID & PRIEST
40 WEST 57TH STREET
NEW YORK, N.Y. 10019

NEW YORK
MAY 18 '94
NY
PB METER 7004212
0.75
U.S. POSTAGE

Ms. Marsha A. Adams, 5HSM-5J
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

REID & PRIEST
40 WEST 57TH STREET
NEW YORK, N.Y. 10019

NEW YORK
MAY 16 '94
NY

PB METER 7004212
0.75
U.S. POSTAGE

Mr. Thomas W. Mateer, Chief
Superfund Program Management Branch
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590