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

MAY 24 1993

REPLY TO THE ATTENTION OF:

CS-3T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Phillips Industries, Inc.
4801 Springfield Pike
Dayton, OH 45431

Re: Request for Information Pursuant to Section 104(e) of CERCLA for the Sanitary Landfill Company (IWD) Site in Moraine, Ohio.

Dear Sir or Madam:

The United States Environmental Protection Agency (U.S. EPA) has completed investigating the source, extent and nature of the release or threatened release of hazardous substances, pollutants or contaminants, at the Sanitary Landfill Company (IWD) Site located at 1855 Cardington Road in Moraine, Ohio (hereinafter referred to as the "Site"). U.S. EPA recently issued its Proposed Plan for the Site, which details U.S. EPA Preferred Alternative for the clean up of the Site. Later this year, U.S. EPA will issue a Record of Decision for the Site, which will set forth the selected remedy to be implemented at the Site.

U.S. EPA is also seeking the identities of any companies or other entities which may have disposed of wastes containing hazardous substances at the Site. U.S. EPA intends to provide any Potentially Responsible Parties (PRPs) for the Site the opportunity to enter negotiations with U.S. EPA regarding implementation of the selected clean up alternative at the Site. PRPs are parties responsible to pay for the clean up of the Site under Section 107(a) of CERCLA, 42 U.S.C. § 4607(a).

Pursuant to the authority of Section 104(e) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. § 9604(e), you are hereby requested to respond to the Information Requests enclosed. Compliance with the enclosed Information Requests is mandatory. Failure to respond fully and truthfully to each and every Information Request within thirty (30) days of receipt of this letter, or to adequately justify such failure to respond, can result in enforcement action by U.S. EPA pursuant to Section 104(e)(5) of CERCLA which, as amended, authorizes the United States to seek penalties from a

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Federal Court of up to twenty-five thousand dollars ($25,000) for each day of continued non-compliance. "Non-compliance" is considered by U.S. EPA to be not only failure to respond to the Requests but also failure to respond completely and truthfully to each Request. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties of up to ten thousand dollars ($10,000) or up to five (5) years of imprisonment or both under 18 U.S.C. § 1001. The U.S. EPA has the authority to use the information requested herein in an administrative, civil or criminal action.

This Information Request is directed to your company, its officers, directors and employees, and its subsidiaries, divisions, facilities and their officers, directors and employees. This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, et seq.

Your response to this Information Request should be mailed to the following person:

Kevin Turner
Remedial Project Manager
U.S. Environmental Protection Agency, HSRM-6J
77 W. Jackson Blvd.
Chicago, Illinois 60604

Please direct any legal questions you may have to John Breslin at (312) 886-7165. If you have any other questions contact Kevin Turner at (312) 886-4444.

Due to the seriousness of the problem at the Site and the legal ramifications of your failure to respond promptly and properly, U.S. EPA strongly encourages you to give this matter your immediate attention and to respond to these Information Requests within the time specified above.

Thank you for your cooperation in this matter.

Sincerely,

Lynn Peterson, Chief
Solid Waste and Emergency Response Branch

Enclosure

INSTRUCTIONS

1. A separate response must be made to each of the questions set forth in this Information Request.

2. Precede each answer with the number of the Information Request to which it corresponds.

3. In answering each Information Request, identify all contributing sources of information.

4. If information not known or not available to the Respondent as of the date of submission of its response should later become known or available, Respondent must supplement its response to U.S. EPA. Moreover, should the Respondent find, at any time after the submission of its response that any portion of the submitted information is false or misrepresents the truth, respondent must notify U.S. EPA as soon as possible.

5. For each document produced in response to this request for Information, indicate on the document, or in some other reasonable manner, the number of the question to which it responds.

6. You must respond to the Information Request on the basis of all information and documents in your possession, custody or control or in the possession, custody or control of your former or current employees, agents, servants, contractors or attorneys. Furnish such information as is available to you, regardless of whether or not it is based on personal knowledge, and regardless of source.

7. Your response should be accompanied by a notarized affidavit from a responsible company official or representative stating that a diligent record search has been completed and that there has been a diligent interviewing process with all present and former employees who may have knowledge of the operations, hazardous substance use, storage, treatment, releases, spills, disposal or handling practices of the Respondent. To the extent that any information you provide relating to these Requests is based on your personal knowledge, or the personal knowledge of your employees, agents, or their representatives, this information shall be in the form of a notarized affidavit.

8. If any documents requested herein have been transferred voluntarily or involuntarily to others or have been otherwise disposed of, identify each such document, identify the person to whom it was transferred, describe the circumstances surrounding such transfer or other disposition, and state the date or approximate date of such transfer or other disposal.

9. The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 CFR 2.203(b). Information covered by such a claim will be disclosed by U.S. EPA only to the extent, and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. [See 41 Federal Register 36902 et seq. (September 1, 1976); 43 Federal Register 4000 et seq. (December 18, 1985)]. If no such claim accompanies the information when it is received by U.S. EPA it may be made available to the public by U.S. EPA without further notice to you. You should read carefully the above-cited regulations, together with the standards set forth in Section 104(e)(7) of CERCLA, before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim, as stated in Section 104(e)(7)(ii) of CERCLA.

DEFINITIONS

For the purpose of the Instructions and Requests for Information set forth herein, the following definitions shall apply:

1. The term "you" or "Respondent" shall mean the addressee of the Request, the addressee's officers, managers, employees, contractors, trustees, predecessors, successors, assigns, subsidiaries, and agents.

2. The term "person" as used herein includes, in the plural as well as the singular, any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.

3. "The Site" or "The Facility" shall mean and include the entire property on which the Sanitary Landfill, also known as the Cardington Road Landfill, is located. The address of the Site is 1855 Cardington Road, Moraine, Ohio.

4. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA, including mixtures of hazardous substances with other substances including petroleum products.

5. The term "pollutant" or "contaminant" shall have the same definition as that contained in Section 101(33) of CERCLA.

6. The terms "furnish", "describe", or "indicate" shall mean turning over to U.S. EPA either original or duplicate copies of the requested information in the possession, custody, or control of the Respondent. Where specific information has not been

memorialized in any document but is nonetheless responsive to an information request, you must respond to the request with a written response. If such requested information is not in your possession, custody, or control then indicate where such information or documents may be obtained.

7. The term "identify" means, with respect to a natural person, to set forth his full name, present or last known business address, the name of that employer and a description of the job responsibilities of such person.

8. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) to set forth its full name, address, legal form (e.g. corporation, partnership, etc.) organization, if any, and a brief description of its business.

9. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance of the subject matter.

10. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substances or pollutants or contaminants.

11. As used here, "document" and "documents" shall include writings of any kind, formal or informal, whether or not wholly or partially in handwriting (including by the way of illustration and not by way of limitation), any invoice, receipt, endorsement, check, bank draft, cancelled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements, and the like, diary, calendar, desk pad, scrap book, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc, or disc pack; and any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc or disc pack, tape or other type of memory and together with printouts of such punch card, disc or disc pack, video tape or other type of memory); including (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like of it, (c) drafts, (d)

attachments to or enclosures with any documents and (e) every document referred to in any other document.

12. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these Information Requests any information which might otherwise be construed to be outside their scope.

REQUESTS

1. Identify all persons consulted in the preparation of the answers to these Information Requests.

2. Identify all documents consulted, examined, or referred to in the preparation of the answers to these Requests and provide copies of all such documents.

3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons.

4. List the EPA Identification Numbers of the Respondent.

5. Identify the acts or omissions of any persons, other than your employees, contractors, or agents, that may have caused the release or threat of release of hazardous substances, pollutants, or contaminants and damages resulting therefrom.

6. Identify all persons who have or may have knowledge or information about the generation, transportation, or disposal of hazardous substances by you, your contractors, or by prior owners and/operators at the Site.

7. Did you ever dispose, transport for disposal, or arrange for the transportation for disposal of any hazardous substances or other materials at the Site? U.S. EPA is in possession of information showing that Respondent was a customer of Industrial Waste Disposal, Inc. ("IWD"), and that disposal transactions were conducted with IWD on the following dates: 4/10/75, 6/23/75, 8/4/75. U.S. EPA's information indicates that IWD disposed of Respondent's waste at the Site. For each of these transactions, and any other transactions which are responsive to this request, please provide the following:

a) The name, chemical composition, characteristics, and physical state (e.g., solid, liquid) of each hazardous substance, and the process for which the hazardous substance or material was used or the process which generated the hazardous substance or material;

b) Each date when such hazardous substances or other materials were disposed or transported for disposal by you, your contractors, or by any other person;

c) The quantity of the material involved (weight or volume) in each transaction and the total quantity for all transactions;

d) All tests or analyses and analytical results concerning each hazardous substance or material;

e) The price charged for transport and/or disposal per drum, barrel, container, load (or whatever unit used) of waste materials brought to the Site.

8. Identify all persons, including yourself, who may have arranged for disposal or arranged for transportation for disposal of waste materials, including hazardous substances, to the Site. In addition, identify the following:

a) The persons with whom you or such other persons made such arrangements;

b) Every date on which such arrangements took place;

c) The person(s) who selected the Site as the place to which the waste materials or hazardous substances were to be transported and disposed;

d) The amount paid in connection with each transaction;

e) What was actually done to the waste materials or hazardous substances once they were brought to the Site;

f) The measures taken by you to determine the actual methods, means, and site of disposal of the waste material and hazardous substances involved in each transaction;

g) The type and number of containers in which the waste materials or hazardous substances were contained when they were accepted for transport, and subsequently until they were deposited at the Site, and all markings on such containers.

P 403 378 525

Receipt for Certified Mail

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UNITED STATES POSTAL SERVICE

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4801 Springfield Pike
Dayton, OH 45431

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PS Form 3800, June 1991

CS-3T Breslin