UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 20 2013

CERTIFIED MAIL — RETURN RECEIPT REQUESTED
URGENT LEGAL MATTER — PROMPT REPLY NECESSARY

Process Knowledge Corporation d/b/a KMAC Services
Michael McCollum
2631 F.L. Shuttlesworth Drive
Birmingham, Alabama 35234

Re: General Notice Letter and Invitation to Conduct a Removal Action at the 35th Avenue Superfund Site located in Birmingham, Jefferson County, Alabama

Dear Mr. McCollum:

Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), commonly known as the federal "Superfund" law, the U.S. Environmental Protection Agency is responsible for responding to the release or threat of release of hazardous substances, pollutants or contaminants into the environment – that is, for stopping further contamination from occurring and for cleaning up or otherwise addressing any contamination that has already occurred. The EPA has documented that such a release has occurred at the 35th Avenue Superfund Site, which includes portions of the Fairmont, Collegeville and Harriman Park communities, all of which are located in and around Birmingham, Jefferson County, Alabama (Site). The EPA has spent, or is considering spending, public funds to investigate and control releases of hazardous substances or potential releases of hazardous substances at the Site.

Based on information presently available to the EPA, the Agency has determined that Process Knowledge Corporation d/b/a KMAC Services may be responsible under CERCLA for cleanup of the Site or costs the EPA incurs in cleaning up the Site. The EPA is investigating the past and current operations of companies located in and around the Site to identify other parties who also may be a source of the releases, and who may be responsible under CERCLA for the cleanup of the Site and the costs incurred by the EPA. Enclosed is a list of parties the EPA has identified in order to facilitate communication and potential coordination for the performance of response actions at the Site.

Explanation of Potential Liability

Under CERCLA, specifically Sections 106(a) and 107(a), potentially responsible parties (PRPs) may be required to perform cleanup actions to protect the public health, welfare or the environment. PRPs

may also be responsible for costs incurred by the EPA in cleaning up the Site, unless the PRP can show statutory defenses. PRPs include current and former owners and operators of a site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the site, any persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered. The EPA has initiated an investigation in order to identify any PRPs for this Site. Based on the information collected to date, the EPA believes that your company may be liable under Section 107(a) of CERCLA with respect to the Site as a current owner and/or operator of the Site and arranger of hazardous substances present at the Site.

Site Response Activities To Date

Since 2011, the EPA has sampled approximately 1100 residential properties at the Site. From the sampling effort, three contaminants of concern emerged including arsenic, lead, and polycyclic aromatic hydrocarbons (PAHs). Of the 1100 residences sampled, approximately 400 exceed the Region's Removal Management Levels (RMLs). As a result, the next phase of the removal action will include cleanup of these 400 residential properties.

Proposed Site Response Activities

At this time, the EPA would like to offer your client the opportunity to perform certain removal activities at the Site. The EPA typically uses the Regional Removal Management Levels (RMLs) to assist the EPA and others in determining whether a removal action is appropriate at Superfund sites. RMLs correspond to cancer risk levels of approximately 10^{-4} (one in 10,000) and/or a Hazard Quotient of 3. Based on sampling results, approximately 400 properties exceed the RMLs for lead, arsenic, and/or polycyclic aromatic hydrocarbons (PAHs), including approximately 50 properties that exceed 10^{-3} risk levels (one in 1,000) for arsenic and/or PAHs and/or 1,200 mg/kg for lead.

At the 35th Avenue Site, the EPA plans to use a phased approach for residential cleanups because all properties exceeding RMLs cannot be cleaned up at the same time. In Phase I, the EPA will initially prioritize removal actions at the approximately 50 residences that exceed the higher risk levels. After Phase I work is completed, the EPA will address the remaining 350 properties that exceed the RMLs.

At this time, the EPA would like to offer you the opportunity to perform the Phase I removal action at the Site which includes the following:

a. Survey properties to verify current property use;

b. Obtain access from owners of property and tenants as needed to conduct removal;

c. Inventory existing plants, grasses, utilities, and outbuildings on each property;

d. Remove impediments, as allowed, to provide for an appropriate excavation effort;

e. Excavate the contaminated soil down to approximately 12 inches below ground surface where the soil exceeds an RML, or less than 12 inches if such excavation is sufficient to remove the contamination to levels below all RMLs from each property;

f. Backfill with clean soil, shape to original contours, and lightly compact;

g. Replace or repair any EPA-damaged concrete, piping, fencing, outbuildings, etc;

h. Provide temporary on-site storage of contaminated soils generated during removal and decontamination activities, pending further waste characterization and profiling, treatment, reuse and/or recycling;

i. Conduct in-situ/ex-situ screening and/or collect samples for laboratory analysis as necessary;

j. Perform on-site treatment of characteristically hazardous waste, if appropriate;

k. Arrange for off-site transportation and disposal/treatment of contaminated soil according to applicable regulations;

l. Maintain site security and limit access during implementation of the removal action;

m. Conduct all removal actions pursuant to an EPA approved Health and Safety Plan;

n. Temporarily relocate residents if necessary during excavation activity; and

o. Re-establish vegetation.

PRP Response / Invitation to Conduct Removal Action

The EPA would like to receive your written response to this General Notice letter no later than fourteen (14) calendar days from the date of this letter. In addition, the EPA would like to offer you the opportunity to meet and discuss this matter and to answer any other questions you may have regarding the Site. The EPA asks that you please contact Marianne Lodin, at (404) 562-9547, to schedule this meeting. If a response to participate in negotiations is not received by the EPA **within fourteen (14) calendar days**, the EPA will assume that the company has decided not to conduct the removal action. Please be aware however, the company will remain potentially liable for the EPA's costs incurred in undertaking activities pursuant to CERCLA and the National Contingency Plan (NCP) at this Site. The EPA may then take appropriate action at the Site, which may include: (1) conducting the removal action and pursuing a cost recovery claim under Section 107 of CERCLA against the company or (2) issuing a Unilateral Administrative Order (UAO) the company under Section 106(a) of CERCLA, 42 U.S.C. § 9606, requiring the company to perform the work. Note that if the recipients of a UAO refuse to comply, the EPA may pursue civil litigation against the recipients to require compliance.

Decision Not to Use Special Notice

Under CERCLA Section 122(e), the EPA has the discretionary authority to invoke special notice procedures to formally negotiate the terms of an agreement between the EPA and PRPs to conduct or finance response activities. Use of these special notice procedures triggers a moratorium on certain EPA activities at the Site while formal negotiations between the EPA and the PRP or PRPs are conducted. In this case, the EPA has decided not to invoke the Section 122(e) special notice procedures. It is the EPA's policy not to use the special notice procedures for a removal action unless there is a six-month planning lead time after the decision to respond and prior to the initiation of the action. This is a time-critical removal action, and special notice procedures accordingly will not be used. Nonetheless as noted above, the EPA is willing to discuss settlement opportunities without invoking a moratorium but will continue the response actions to completion if such discussions do not lead to settlement expeditiously.

Administrative Record

Pursuant to CERCLA Section 113(k), the EPA will establish an Administrative Record that contains documents that serve as the basis for the EPA's selection of a cleanup action for the Site. The Administrative Record will be available to you and the public for inspection and comment. The Administrative Record will also be available for inspection and comment at the Superfund Records Center, EPA Region 4, at 61 Forsyth Street, S.W., Atlanta, Georgia 30303.

Conclusion

Due to the legal ramifications of your failure to respond properly, the EPA strongly encourages you to give this matter your immediate attention and to respond within the time specified above. If you have any legal or technical questions, you may consult with the EPA prior to the time specified above. Please direct legal questions to Ms. Marianne Lodin, Associate Regional Counsel, at (404) 562-9547. Technical questions should be directed to Rick Jardine, On-Scene Coordinator, at the above address, or at (404) 562-8764.

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein. Thank you for your prompt attention to this matter.

Sincerely,

James W. Webster, Chief
Emergency Response and Removal Branch
Superfund Division

Enclosure

cc: Phillip Davis, ADEM
Jeff Kitchens, ADEM
Tom Johnston, ADEM

ENCLOSURE

September 2013 List of PRPs

1) Drummond Company, Inc.
Curtis W. Jones – Corporate Counsel and Assistant Secretary
1000 Urban Center Drive, Suite 300
Birmingham, Alabama 35242-2532

2) U.S. Pipe & Foundry Company, LLC
Mueller Water Products, Inc.
% Les Oakes, Esquire
King & Spaulding
1180 Peachtree Street
Atlanta, Georgia 30309-3521

3) Alabama Gas Corporation
Stephen R. Chapman, Vice President – Support Services
605 Richard Arrington Jr. Boulevard
Birmingham, Alabama 35203

4) Process Knowledge Corporation d/b/a KMAC Services
Michael McCollum
2631 F.L. Shuttlesworth Drive
Birmingham, Alabama 35234

5) Walter Coke, Inc.
Attention: Robert D. Mowrey
Kazmarek Mowrey Cloud Laseter LLP
1100 Peachtree Street, Suite 650
Atlanta, Georgia 30309