UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

MAR 30 2017

BY CERTIFIED MAIL,
RETURN RECEIPT REQUESTED & ELECTRONIC MAIL

To: See List of Addressees – Attachment A

Re: Diamond Alkali Superfund Site, Lower 8.3 Miles of Lower Passaic River, Essex and Hudson Counties, New Jersey

Notice regarding Next Steps Including Initial Cash Out Settlement

The United States Environmental Protection Agency ("EPA") has documented the release and threatened release of hazardous substances, pollutants and contaminants at the Diamond Alkali Site ("Site") in Essex, Bergen, Hudson and Passaic Counties, New Jersey. The Site includes the former Diamond Alkali facility at 80-120 Lister Avenue, Newark, New Jersey, the Lower Passaic River Study Area ("LPRSA"), the Newark Bay Study Area, and the areal extent of contamination.

The Site was placed on the National Priorities List ("NPL") in 1984. In 1987, EPA issued a Record of Decision for Operable Unit 1 ("OU1"), the former Diamond Alkali facility at 80-120 Lister Avenue, Newark, New Jersey. On March 3, 2016, EPA issued a ROD for Operable Unit 2 ("OU2"), the lower 8.3 miles of the Lower Passaic River. Currently, remedial investigation/feasibility studies are being conducted for the 17-mile LPRSA and the Newark Bay Study Area.

The OU2 ROD was issued by EPA to address human health and environmental risks posed by contaminated sediments found in the lower 8.3 miles of the Lower Passaic River, an area from the river's confluence with Newark Bay to River Mile 8.3 near the border between the City of Newark and Belleville Township, New Jersey. The OU2 ROD calls for, among other things, the construction of an engineered cap bank to bank over the river bottom of the lower 8.3 miles of the river, dredging of the river bottom prior to placement of the cap, and implementation of institutional controls designed to protect the engineered cap.

On March 31, 2016, EPA notified each Addressee that it may be a potentially responsible party under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9607(a), with respect to OU2 for the Site. That letter also notified the recipients that EPA intended to: a) negotiate a settlement with Occidental Chemical Corporation ("OCC") for OCC's performance of the remedial design for the remedy selected in the OU2 ROD; b) negotiate a remedial action consent decree under which OCC and other major parties will implement and pay for the remedy selected in the OU2 ROD; and c) identify parties that may be eligible for a cash out settlement with EPA for the lower 8.3 miles of the Lower Passaic River.

On September 30, 2016, EPA and OCC entered into Administrative Settlement Agreement and Order on Consent for Remedial Design, CERCLA Docket No. 02-2016-2021, for OCC's performance of the remedial design selected in the OU2 ROD, under EPA oversight.

NEXT STEPS

As of the date of this letter, EPA is notifying 20 parties that EPA has identified them as candidates for early cash out settlements. The 20 parties are listed in the enclosure to this letter. EPA has identified for immediate settlement those parties that are not associated with a disposal or release of any of the contaminants of concern ("COCs") for OU2, as identified in the OU2 ROD.

Parties that are responsible for the release or discharge of dioxins, furans, or polychlorinated biphenyls ("PCBs") into the Lower Passaic River should participate in implementing or funding the remedy selected for the lower 8.3 miles of the Lower Passaic River. EPA will provide notice to those parties shortly, as well as an opportunity to meet with EPA to discuss their status.

For parties that are not one of the 20 early cash out parties and are also not associated with the release of dioxins, furans, or PCBs into the Lower Passaic River, a cash out settlement might be appropriate. This determination requires additional complex settlement analysis. EPA expects to use the services of a third party allocator before extending cash out settlement offers to any such party. In a subsequent letter, EPA will identify the parties that should be part of the allocation process. There will be a future opportunity for OU2 PRPs to offer input on the factors that they think should be considered in the allocation process, and to provide feedback on the overall design of the allocation process.

If you have any questions regarding this letter, you may contact Juan Fajardo via email at fajardo.juan@epa.gov or by phone at (212) 637-3132.

We look forward to working with you.

Sincerely yours,

Eric J. Wilson
Deputy Director for Enforcement and Homeland Security
Emergency and Remedial Response Division

Enclosure: List of Early Cash Out Parties

cc: Brian Donohue, Esq., USDOJ
Mark Barash, Esq., USDOI
Kate Barfield, Esq., NOAA
John Dickinson, Esq., New Jersey Attorney General's Office

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Attachment A - List of Addressees

Diamond Alkali Superfund Site
Lower 8.3 Miles - Passaic River
Notice of Next Steps

Company	Contact Information	Facility
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Unilever Bestfoods International Plaza Sylvan Avenue Englewood Cliffs, NJ 07632 Conopco, Inc., d/b/a Unilever (as successpr to CPC/Bestfoods, former parent of the Penick Corporation	Joshua Frank, Esq. Baker Botts 1299 Pennsylvania Ave., N.W. Washington, DC 20004-2400 202-639-7710 (T) Joshua.frank@bakerbotts.com Andrew Shakalis, Esq. Associate General Counsel – Environmental & Safety Unilever 700 Sylvan Avenue Englewood Cliffs, NJ 07632 201-894-2763 (T) 201-894-2727 (F) Andrew.shakalis@unilever.com	Penick Corporation 540 New York Avenue Lyndhurst, NJ
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Town of Harrison	Honorable James A. Fife, Mayor Town of Harrison 318 Harrison Avenue Harrison, New Jersey 07029 Mr. Paul J. Zarbetski, Esq. Town of Harrison 318 Harrison Avenue Harrison, New Jersey 07029	
Town of Kearny	Honorable Alberto G. Santos, Mayor Town of Kearny 402 Kearny Avenue Kearny, NJ 07032	

Proposed Cash Out Parties
Lower 8.3 Miles of the Lower Passaic River
Diamond Alkali Superfund Site

1. Alcan Corporation - now Novelis Corp.
2. Alden Leeds Inc.
3. Belleville Industrial Center
4. DiLorenzo Properties Company
5. EM Sergeant Pulp & Chemical Co.
6. Fiske Brothers Refining Co.
7. Flexon Industries Corp.
8. Harrison Supply Company
9. Mallinckrodt, Inc.
10. Palin Enterprises
11. Pfizer Inc.
12. Roman Asphalt Corporation
13. RTC Properties, Inc.
14. S&A Realty Corp.
15. Teva Pharmaceuticals USA, Inc.
16. The Andrew Jergens Co. - now KAO U.S.A Inc.
17. The BOC Group, Inc. - now Linde LLC on behalf of The BOC Group, Inc.
18. Three County Volkswagen
19. Wiggins Plastics Inc.
20. Wyeth