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CLIENT/MATTER NUMBER
110874-0103

August 9, 2017

**Via E-Mail & FedEx**

United States Environmental Protection Agency-Region 5
Attn: Brenda Whitney
77 West Jackson Boulevard, LR-17J
Chicago, IL 60604
Whitney.Brenda@epa.gov

Re: Response to Request to Provide Information Pursuant to Resource Conservation Recovery Act Dated June 28, 2017-Container Life Cycle Management LLC

Dear Ms. Whitney:

On July 5, 2017, Foley & Lardner LLP received a Resource Conservation Recovery Act Section 3007 Information Request directed to "Container Life Cycle Management, Inc. (d/b/a Mid-America Steel Drum)" from the United States Environmental Protection Agency-Region 5 ("U.S. EPA") dated June 28, 2017. It is Container Life Cycle Management LLC's ("CLCM's") intent to respond promptly based on the available information; however, providing responses to the Information Request requires locating and reviewing a large volume of documents. CLCM appreciates U.S. EPA's flexibility in granting an extension of the deadline to fully respond to the Information Request.

As agreed, CLCM has completed its response to Request 12. As agreed, CLCM will provide its responses to Requests 3(b)-(d), 8(a)-(c), 10(c)-(d), 13(a)-(c), and 20(a)-(c) to U.S. EPA by September 11, 2017. CLCM previously responded to Requests 1, 2, 3(a), 4-7, 8(d)-(e), 9, 10(a)-(b), 11, 13(d)-(g), 14-19, 20(d)-(g), and 21.

Documents responsive to this request are provided as PDF files on the flash drive which will be arriving via FedEx, with a corresponding Table of Contents as requested. The documents have been scanned for viruses using Workshare Professional.

Sincerely,

Linda E. Benfield

Enclosures (via FedEx only)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

**RESPONSE OF**
**CONTAINER LIFE CYCLE MANAGEMENT LLC TO**
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S**
**REQUEST TO PROVIDE INFORMATION UNDER SECTION 3007 OF THE**
**RESOURCE CONSERVATION RECOVERY ACT**

**August 9, 2017**

Foley & Lardner LLP received the United States Environmental Protection Agency's ("U.S. EPA") Resource Conservation Recovery Act, Section 3007 Information Request dated June 28, 2017 ("Information Request") directed to "Container Life Cycle Management, Inc. (d/b/a Mid-America Steel Drum)" regarding the facilities at 2300 W. Cornell St. Milwaukee, Wisconsin, 8570 S. Chicago Ave. Oak Creek, Wisconsin, and 3950 South Pennsylvania Avenue St. Francis, Wisconsin (hereinafter referred to as the "Facilities"). Container Life Cycle Management LLC ("CLCM"), a joint venture that purchased the operating assets of the business on November 4, 2013, currently operates the Facilities.

Foley & Lardner LLP received the Information Request on July 5, 2017. As agreed, this document includes CLCM's response to Request 12. As agreed, CLCM will provide its responses to Requests 3(b)-(d), 8(a)-(c), 10(c)-(d), 13(a)-(c), and 20(a)-(c) to U.S. EPA by September 11, 2017. CLCM previously responded to Requests 1, 2, 3(a), 4-7, 8(d)-(e), 9, 10(a)-(b), 11, 13(d)-(g), 14-19, 20(d)-(g), and 21.

## GENERAL OBJECTIONS

CLCM incorporates in their entirety, the objections set forth in its Response dated July 26, 2017.

The following responses correspond to the numbered requests within of the Information Request (the Information Request language is set forth in italics). All responses were prepared with the assistance and advice of counsel and such discussions are covered by attorney/client and attorney work product privileges.

## RESPONSE

**REQUEST NO. 12.** *EPA representatives observed approximately twelve 55-gallon drums and additional containers of hazardous waste at the St. Francis facility while on site on May 4, 2017. The 55-gallon drums were marked as D009 hazardous waste for mercury content and several of the drums were marked as containing "Mercury Wash Water." A St. Francis representative indicated this material had been generated during a cleaning event by an outside contractor. An additional 55-gallon drum was observed on site that was marked as "Boots." The same St. Francis representative indicated that the boots of St. Francis employees had been collected because they contained mercury.*

(a) *Provide a description of the cleaning event that was carried out by the contractor, including, but not limited to:*

i. *The name of the contractor;*

ii. *The purpose of the cleaning event;*

iii. *How the cleaning event was determined to be necessary;*

iv. *The source(s) of the mercury that led to the cleaning event;*

v. *How the collection and testing of employee clothing and/or equipment was determined to be necessary; and*

vi. *The start date of the cleaning event and its duration, if now completed.*

(b) *Provide all documentation related to the cleaning event, including, but not limited to:*

i. *All analytical data and other information used to determine the necessity of the cleaning event;*

ii. *All analytical data generated during the cleaning event, including that of any sludge, wastewater, wash water, solid debris, and employee clothing and/or equipment;*

iii. *All analytical data generated after completion of the cleaning event, if applicable;*

iv. *All correspondence between St. Francis and the contractor related to the cleaning event; and*

v. *All hazardous waste manifests and other shipment documents used to remove the waste generated during the cleaning event.*

(c) *Describe any other mercury-related cleaning events that may have occurred at the St. Francis facility in the past and their root cause(s).*

**Response No. 12.**

Dating back to 2014, CLCM has had intermittent compliance issues with the Facility's wastewater permit in regard to discharge limitations for mercury. At the request of the Milwaukee Metropolitan Sewerage District ("MMSD"), CLCM began to investigate operations to determine if there was a possible source of mercury present. One of the first activities CLCM conducted was to sample process waters in order to determine if mercury was present. After conducting the analysis, low levels of mercury were identified in the process waters at the CLCM Facility. The original analytical data which identified the presence of mercury at the

Facility is enclosed with this Response and labeled as document Bates. No. CLCM-RCRA-Request 12(b)(i)-0000001 to CLCM-RCRA-Request 12(b)(i)-0000009. Once mercury was identified, CLCM had two primary concerns – potential employee exposure and compliance with MMSD wastewater discharge limits. The purpose of the mercury cleanup project was to address these two concerns. Additionally, these two concerns drove the activities described in the Wastewater Pretreatment System Work Plan as well as an Industrial Hygiene Survey. A detailed description of the cleaning events is included within the Wastewater Pretreatment System Work Plan. The Wastewater Pretreatment System Work Plan and corresponding updates and non-privileged data from the Industrial Hygiene Survey are enclosed with this Response and are labeled as documents Bates No. CLCM-RCRA-Request 12(a)-0000028 to CLCM-RCRA-Request 12(a)-0000030 and Bates No. CLCM-RCRA-Request 12(a)-0000033 to CLCM-RCRA-Request 12(a)-0000043. Personal identifying information has been redacted from the Industrial Hygiene Survey data.

The source of the mercury contamination at the CLCM St. Francis Facility is believed to be a drum or drums received from a customer or customers. Once mercury was identified and the probable source was identified, CLCM evaluated its customer list and stopped receiving drums from locations where it was believed to have a higher probability of receiving RCRA empty drums containing mercury.

Initially, an Industrial Hygiene Survey and actions were being conducted to the standards listed in the Agency for Toxic Substances and Disease Registry ("ATSDR") Action Levels for Mercury document dated March 22, 2012. The ATSDR document is enclosed with this Response and is labeled as document Bates No. CLCM-RCRA-Request 12(a)-000001 to Bates No. CLCM-RCRA-Request 12(a)-000027. However, CLCM engaged a mercury expert to manage the project, Joel Hogue of Elemental Services & Consulting, Inc. ("ESCO"), who advised that the ATSDR standards were more stringent than any Occupational Safety and Health Administration ("OSHA") standards, and were not necessarily applicable to CLCM's operations.

CLCM had engaged SET Environmental as the contractor for the cleanup project; however, shortly after ESCO began managing the project, CLCM engaged North Shore Environmental Construction Inc. as the contractor for cleanup activities.

Footwear was tested on the evening of April 26, 2017– any footwear that came back with a reading at or above 6 $\mu g/m^3$ were kept and placed in a waste drum. Results from the footwear testing are enclosed with this Response and labeled as document Bates No. CLCM-RCRA-Request 12(b)(ii)-0000002 to Bates No. CLCM-RCRA-Request 12(b)(ii)-0000005. Personal identifying information has been redacted from the footwear testing results. The morning after the footwear was tested, CLCM provided a boot truck at the Facility to replace any footwear that was identified as requiring disposal. The boots given to employees were static dissipative, as SET Environmental informed CLCM this type of boot is less likely to be impacted by mercury. Please note that the 6 $\mu g/m^3$ limit for CLCM's footwear assessment came from the ATSDR document referenced above and such limit is more stringent than the limits within the OSHA regulations. The ATSDR guidance drove all of CLCM's cleanup activities at the beginning of the project.

On May 10, 2017 and May 11, 2017, an Industrial Hygiene Survey for mercury exposure was conducted at the CLCM St. Francis Facility. Results from this survey showed employee exposure to be below any Permissible Exposure Limits ("PELs") or Occupational Exposure Limits ("OELs") for mercury. Non-privileged data from the Industrial Hygiene Survey is enclosed with this Response and is labeled as document Bates No. CLCM-RCRA-Request 12(b)(ii)-0000001. Personal identifying information has been redacted from the Industrial Hygiene Survey data.

The remediation activities described above began onsite on April 8, 2017 and are ongoing. The only activities not described in the Wastewater Pretreatment System Work Plan referenced above that have occurred are: cleaning the discharge piping from the carbon vessel outlets to the sampling manhole located just west of the facility; the two inch piping was removed and cleaned and reinstalled; the 8" discharge piping was jetted then flushed with decon solution, rinsed and then a camera was sent into the pipe to video the results.

The drain was plugged during this time so discharge to MMSD did not occur. With the drain plugged, CLCM was able to containerize 10 drums of wash/decontamination water.

Please note that waste generated from the initial cleanup activities at the CLCM St. Francis Facility were shipped offsite on August 4, 2017. The hazardous waste manifest is enclosed with this Response and labeled as documents Bates No. CLCM-RCRA- Request 12(b)(v)-0000001 to 12(b)(v)-0000002. Additionally, the final analytical data for the mercury waste is enclosed with this Response and labeled as document Bates. No. CLCM-RCRA-Request 12(b)(iii)-0000001 to document Bates. No. CLCM-RCRA- Request 12(b)(iii)-0000182. The characterization of the initial waste drums was unavoidably delayed due to a medical emergency of CLCM's mercury project manager. Given the unforeseen delay, CLCM requested an extension on the 90-day storage period at the Facility. The Wisconsin Department of Natural Resources granted the extension and an email confirmation of this extension is enclosed with this Response and labeled as document Bates No. CLCM-RCRA-Request 12(a)- 0000031 to Bates No. CLCM-RCRA-Request 12(a)- 0000032.

CLCM is currently verifying that cleaning activities have effectively mitigated the mercury discharge concern and will continue to coordinate with MMSD to demonstrate compliance with the discharge limits.

CLCM does not have any non-privileged correspondence between the company and the contractor.

Finally, the CLCM St. Francis Facility has not had any other mercury-related cleaning events during the time period covered by this Information Request.

**Certification**

**REQUEST NO. 21**. *Provide the following certification by a responsible corporate officer:*

> *I certify under the penalty of law that I have examined and am familiar with the information submitted in responding to this information request for production of documents. Based on my review of all relevant documents and inquiring of those individuals immediately responsible for providing all relevant information and documents, I believe that the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.*

Signature: _____ Date: 8-9-17

Printed Name: MARK FURGASON

Title: SITE MANAGER

AS TO OBJECTIONS:

CONTAINER LIFE CYCLE MANAGEMENT LLC

Dated: August 9, 2017

By: _____
Linda E. Benfield
Attorney for Container Life Cycle Management LLC

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