UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 Broadway
New York, NY 10007-1866

April 20, 2020

URGENT LEGAL MATTER
PROMPT REPLY NECESSARY
ELECTRONIC MAIL

Mr. Alexander Decter
Oberwill Corporation
c/o Frederick R. Dunne, Jr., Esq.
Dunne, Dunne & Cohen, LLC
683 Kearny Ave., Ste 1
Kearny, NJ 07032

Re: Notice of Potential Liability
Pierson's Creek Superfund Site
Newark, New Jersey

Dear Mr. Decter:

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the federal "Superfund" law, EPA 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. EPA has documented that such a release has occurred at the Pierson's Creek Superfund Site (Site) in Newark, New Jersey. EPA has spent public funds, and expects to spend additional funds, to investigate and control releases of hazardous substances or potential releases of hazardous substances at the Site. Based on information presently available to EPA, EPA has determined that Oberwill Corporation may be responsible under CERCLA for the cleanup of the Site and costs EPA has incurred and will incur with respect to 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 EPA in cleaning up a site, unless the PRP can demonstrate divisibility or assert one of the 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, and persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

Based on presently available information, EPA believes that Oberwill Corporation may be liable under Section 107(a) of CERCLA with respect to the Pierson's Creek Superfund Site, as a current owner of property at 366-394 Wilson Avenue (Block 5038, Lot 97), Newark New Jersey, which is located within the Site. Specifically, EPA has reason to believe that during the time of Oberwill's ownership of the property, Salomone Brothers, Inc. excavated soils and sediment that contained hazardous substances including mercury and polychlorinated biphenyls (PCBs) from the unnamed tributary located between Oberwill's property and that of Troy Chemical Company and subsequently placed the contaminated soil and sediment on Oberwill's property. EPA believes that these soils and sediments remain stored on Oberwill's property as of today. Salomone Brothers also appears to have installed a pipe into the unnamed tributary, further disturbing contaminated soil and sediment. EPA had previously collected samples from the unnamed tributary, but by excavating and moving the contaminated soils and sediment, these activities have compromised the usefulness of those sample results because the areas where the samples were taken were subsequently altered by Salomone Brothers' excavations and movement of soils and sediment.

EPA is conducting a remedial investigation (RI) to identify the Site characteristics and to define the nature and extent of soil, air, surface water, and groundwater contamination at the Site and the risks to human health and the environment posed at the Site. This work is being performed with respect to the portion of the Site designated as Operable Unit 1, which includes all portions of the Site other than the Troy Chemical Company property which is designated as Operable Unit 2. Troy Chemical Company is conducting an RI and feasibility study (a study that evaluates different cleanup options for the Site) for Operable Unit 2 under an Administrative Settlement Agreement and Order on Consent with EPA.

Financial Concerns/Ability to Pay Settlements

EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a site may be substantially limited. If you believe, and can document, that you fall within that category, please contact Amelia Wagner at 212-637-3141 for information on ability to pay settlements. In response, you will receive information about the potential for such settlements and a form to fill out with information about your finances, and you will be asked to submit financial records including business and income tax returns. If EPA concludes that Oberwill Corporation has a legitimate inability to pay the full amount of EPA's costs, EPA may offer a schedule for payment over time or a reduction in the total amount demanded from you.

Also, please note that because EPA has a potential claim against you, you must include EPA as a creditor if you file for bankruptcy. EPA reserves the right to file a proof of claim or an application for reimbursement of administrative expenses.

Resources and Information for Small Businesses

As you may be aware, on January 11, 2002, former President George W. Bush signed into law the Superfund Small Business Liability Relief and Brownfields Revitalization Act. This Act contains several exemptions and defenses to CERCLA liability, which we suggest that you evaluate. You may download a copy of the law at http://www.gpo.gov/fdsys/pkg/PLAW-107publ118/pdf/PLAW-

107publ118.pdf and review EPA guidances regarding these exemptions at http://cfpub.epa.gov/compliance/resources/policies/cleanup/superfund/.

EPA has created a number of helpful resources for small businesses. EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers which offer various forms of resources to small businesses. You may inquire about these resources at http://www.epa.gov/compliance/compliance-assistance-centers. In addition, the EPA Small Business Ombudsman may be contacted at http://www.epa.gov/resources-small-businesses/forms/contact-us-about-resources-small-businesses. Finally, EPA has developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act (SBREFA) and information on resources for small businesses, and available on the Agency's website at http://www.epa.gov/compliance/small-business-resources-information-sheet.

Please give this matter your immediate attention. EPA is also issuing a notice letter to Salomone Brothers, Inc. regarding the Site.

EPA is interested in having a conference call with Oberwill Corporation and Salomone Brothers, Inc. to discuss the substance of this letter and work that is needed in the short term to address contaminated soils and sediment on the Oberwill property. Please contact Amelia Wagner, the attorney assigned to the Site, at 212-637-3141 to set up a date and time for this call. Thank you for your prompt attention to this matter.

Sincerely,

Eric Wilson
Acting Director
Superfund and Emergency Management Division

cc: Pamela Tames, P.E., EPA
Amelia Wagner, Esq., EPA