Rec'd 9/1/16

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

August 31, 2016

REPLY TO THE ATTENTION OF:
SE-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Estate of Lois Jean Wienen
c/o: Carey S. Rosemarin, Esq.
Law Offices of Carey S. Rosemarin, P.C.
500 Skokie Boulevard, Suite 510
Northbrook, Illinois 60662

Re: Bautsch-Gray Mine Superfund Site
Jo Daviess County, Illinois
Site Spill Identification Number: B5TS
General Notice of Potential Liability

Dear Mr. Rosemarin:

The U.S. Environmental Protection Agency has documented the release or threat of release of hazardous substances, pollutants and contaminants into the environment at the Bautsch-Gray Mine Superfund Site (the Site) located at 798 Blackjack Road, in Jo Daviess County, Illinois. EPA has previously spent, and may continue to spend public funds to investigate and control these releases. EPA has taken and may continue to take these removal and remedial actions pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. §§ 9601-9675. If EPA determines that there are other responsible parties who are prepared to properly undertake future remedial actions, then EPA itself may not undertake these actions. Responsible parties under CERCLA include the current and former owners and operators of the Site, and persons who generated the hazardous substances or were involved in the transport, treatment or disposal of the hazardous substances at the Site. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), when EPA uses public funds towards the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal or remedial action and all other necessary costs incurred in cleaning up the Site, including investigation, planning and enforcement costs.

EPA had conducted the following actions at the Site:

1. Performance of a 2010 – 2014 Removal Action, with on-going Oversight and Maintenance;

2. Development and implementation of a Site Health and Safety Plan;

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3. Development and implement a Site Security Plan;

4. Development and implementation of an Air Monitoring and Sampling Plan;

5. Conducted work to stabilize the contaminated mine tailings on-site to prevent off-site migration; and

6. Conduct a Remedial Investigation and/or Feasibility Study to determine nature and extent of contamination at the Site, and the necessary approach under CERCLA to address it.

EPA has received information that you may be liable under Section 107(a) of CERCLA with respect to the Site, as potentially responsible for the release, or threat of release, of hazardous substances at the Site. By this letter, EPA notifies you of your potential liability with regard to this matter and encourages you, as a potentially responsible party (PRP), to voluntarily perform or finance the response activities that EPA has determined or will determine are required at the Site. EPA is willing to discuss the entry of an appropriate Administrative Consent Order under which you would perform or finance response activities and reimburse EPA for its costs.

If a consent order cannot be promptly concluded, EPA may issue a Unilateral Order under Section 106 of CERCLA, requiring you to perform specified work. Under Sections 106 and 107 of CERCLA, you may be liable for reimbursement of EPA's costs, for statutory penalties and for treble damages for noncompliance with such an order.

Because of the conditions described above, EPA believes that response activities at the Site must be initiated as quickly as possible. Therefore, EPA does not intend to utilize the special notice procedures available under Section 122(e) of CERCLA.

You, as a PRP, should notify EPA in writing within ten (10) business days of receipt of this letter of your willingness to perform or finance the activities described above and to reimburse EPA for its costs. This request is made consistent with EPA's authority pursuant to the CERCLA, as amended. The response to this letter should be sent to:

Fouad Dababneh, Enforcement Specialist
U.S. Environmental Protection Agency, Region 5
Superfund Division, Enforcement and Compliance Assurance Branch
Enforcement Services Section 2, SE-5J
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

If EPA does not receive a timely response, EPA will assume that you do not wish to negotiate a resolution of its potential responsibility in connection with the Site and that you have declined any involvement in performing the response activities.

Your response should indicate the appropriate name, address and telephone number for further contact with you. If you are already involved in discussions with state or local authorities, engaged in a voluntary cleanup action or involved in a lawsuit regarding the Site, those activities should continue as you see fit. This letter is not intended to advise you or direct to restrict or discontinue any such activities already underway; however, you are advised to report the status of those discussions or actions in its response to this letter and to provide a copy of its response to any other parties involved in those discussions or actions.

If you have any legal questions, please call Thomas Turner, Associate Regional Counsel, at (312) 886-6613, e-mail turner.thomas@epa.gov. If there are technical questions about this Site, call Pamela Molitor, Remedial Project Manager at (312) 886-3543, e-mail molitor.pamela@epa.gov.

Due to the nature of the problem at this facility and the attendant legal ramifications, EPA strongly encourages you to submit a written response within the time frame specified herein. We hope you will give this matter your immediate attention.

Sincerely,

Joan Tanaka

Joan Tanaka, Chief
Remedial Response Branch 1