UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

June 30, 2009

OFFICE OF THE
REGIONAL ADMINISTRATOR

Thomas Ross
President
H. Krevit & Company, Inc.
73 Welton St.
P.O. Box 9433
New Haven, CT 06534

Re: (a) Notice of Violation, Administrative Order, and Reporting Requirement Pursuant to the Clean Air Act, Docket No. CAA-01-2009-0069
(b) Information Request Pursuant to RCRA and Clean Water Act

Dear Mr. Ross:

Enclosed please find a Notice of Violation, Administrative Order and Reporting Requirement ("NOV, AO, RR") issued pursuant to Clean Air Act Section 112(r) for violations of the Act's risk management planning regulations and the General Duty Clause.[1] This letter also contains an information request pursuant to the Resource Conservation and Recovery Act ("RCRA") and the Clean Water Act.

The goal of Section 112(r) of the Clean Air Act is to reduce the risk of chemical accidents. Specifically, EPA has found that H. Krevit & Company ("Krevit") failed to (1) identify, evaluate, and control chemical hazards at its 73 Welton Street facility (the "Facility") in violation of the General Duty Clause and 40 C.F.R. §§ 68.50 and 68.67; (2) submit a Risk Management Plan ("RMP") for Krevit's management of hydrochloric acid solution containing at least 37% acid, in violation of 40 C.F.R. §§ 68.10(a) and 68.12(a); and (3) conduct all the required compliance audits of the chlorine RMP process, in violation of 40 C.F.R. § 68.79.

The NOV, AO, and RR requires Krevit to fix a broken chlorine gas scrubber, properly store incompatible chemicals, conduct a chemical hazard analysis for all the extremely hazardous chemicals stored at the facility, submit a RMP for Krevit's hydrochloric acid management (only required if Krevit plans to continue managing

[1] The "General Duty Clause" of the Clean Air Act is found at Section 112(r)(1) of the Clean Air Act, 42 U.S.C. § 7412(r)(1). Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to (1) identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques; (2) design and maintain a safe facility taking such steps as are necessary to prevent releases; and (3) minimize the consequences of accidental releases that do occur. The General Duty Clause is not limited to the chemicals subject to the risk management regulations. Moreover, the General Duty Clause applies regardless of the amount of chemical stored. **A guidance that further explains the General Duty Clause may be found at www.epa.gov/emergencies/docs/chem/gdcregionalguidance.pdf.**

hydrochloric acid solution that contains at least 37% acid); and comply with the compliance audit requirements for the chlorine process. The NOV, AO, and RR also requires Krevit to answer a few questions pursuant to the Clean Air Act's information-gathering authority.

RCRA and Clean Water Act Information Request

My staff also is concerned about Krevit's compliance with hazardous waste management requirements under RCRA and requirements under the Clean Water Act for prevention of oil spills. The Oil Pollution Prevention Regulations at 40 C.F.R. Part 112, promulgated under Section 311 of the Clean Water Act, 33 U.S.C. § 1321, require facilities to have and fully implement a Spill Prevention, Control, and Countermeasure ("SPCC") Plan for review. As of the date of this letter, EPA does not have a copy of your Facility's SPCC plan.

Under the authority of Sections 3007 of RCRA, 42 U.S.C. § 6927, and Sections 308 and 311(m) of the Clean Water Act, 33 U.S.C. §§ 1318 and 1321(m), EPA requests answers to the following questions.[2] All questions refer to the present unless otherwise indicated.

You are hereby required to submit to EPA within sixty (60) calendar days of your receipt of this letter the following:

1) For each person providing information that responds to these items, provide:
   a) full name;
   b) title;
   c) e-mail address:
   d) business address; and
   e) business telephone number and FAX machine number.

2) If you have any reason to believe that there may be persons other than those included in question 1 that are able to provide a more detailed or complete response to any of these questions, or who may be able to provide additional responsive documents, identify such persons [using the format of question 1] and the additional information or documents that they may have.

3) Provide records and documents that detail the operation of Krevit's wastewater treatment system and associated discharge to the City of New Haven sanitary sewer

[2] Whenever the terms listed below are used in this request, the following definitions shall apply: "Documents" shall mean writings (handwritten, typed or otherwise produced or reproduced); and includes, but is not limited to, any invoices, checks, receipts, bills of lading, weight receipts, correspondence offers, contracts, agreements, deeds, leases, manifests, licenses, permits, bids, proposals, policies of insurance, logs, books of original entry, minutes of meetings, memoranda, notes, calendar or daily entries, agendas, bulletins, notices, announcements, charts, maps, photographs, drawings, manuals, brochures, reports of scientific study of investigation, schedules, price lists, telegrams, phone-records, magnetic voice or video records, tapes, summaries, magnetic tapes, punch cards, recordings, discs, computer printouts, or other data compilations from which information can be obtained or translated.

system, including:

a) A description of the treatment system including engineering designs, schematics and plans;
b) A listing of all treatment chemicals used in the wastewater treatment system and a copy of Material Safety Data Sheets for each chemical;
c) A list of all personnel managing and operating the treatment system and any associated operators licenses held by each;
d) Any operating record associated with the treatment system that specifically describes the system's daily operation, including amount of wastewater added and discharged and the type and amount of treatment chemicals added;
e) Identify all waste streams discharged to the wastewater treatment system; and
f) Specifically identify the amount of non-conforming or off-specification product or wastes used in the wastewater treatment system. Identify the specific material or chemical and the amount used on a daily basis during 2007 and 2008.

4) Identify all waste generated during 2006, 2007, 2008 and 2009 to date, and its ultimate disposition. Include copies of all hazardous waste manifests associated with the waste and waste profiles. Also, describe in detail the process which generated the waste and the amounts generated.

5) Provide all documentation associated with the 2007 sodium bisulfite release, including descriptions and documentation of all notifications to authorities, reports generated as a result of the release, waste profiles and determinations for the waste generated from the incident, and hazardous waste manifests.

6) Regarding the storage of ten 2,000-pound totes of sodium hydroxide pellets, identify the source of the material, when it was manufactured or purchased by Krevit and when it began to be stored at the Facility. Also, identify specifically how this material is currently used and/or how it will be used, repackaged or resold in the future.

7) Describe, in detail, the procedures Krevit employees would implement for responding to a spill or release of chemicals at the Facility. Include the type of response and contingency plan that would be implemented, specific notification procedures, protective equipment used, clean-up procedures, and ultimate disposition of any wastes generated.

8) Describe, in detail, the procedures for determining if a product or material is "non-conforming." Identify what personnel would make the determination, how a non-conforming material may be generated, and the ultimate disposition of any non-conforming materials. Include a detailed list of all non-conforming or off-specification products or materials generated during 2007, 2008 and 2009 to date.

9) Provide a copy of the Facility's current SPCC plan along with a statement detailing the actions taken by the Facility to correct any deficiencies and a schedule for any improvements to the Facility that you have not yet completed that are required to

fully implement the SPCC Plan; and

10) If the Facility must revise its existing SPCC Plan, submit a copy of such new or revised SPCC Plan. If completion of the SPCC Plan is not feasible within sixty (60) calendar days, submit a detailed schedule of when it will be completed and fully implemented. The schedule should include the name, address, license number, and state of licensure of the registered professional engineer certifying the SPCC Plan.[3] If the SPCC Plan calls for the construction of secondary containment at the Facility, the schedule should include construction milestone dates.

11) If you have determined that the Facility is not subject to the Oil Pollution Prevention Regulations at 40 C.F.R. Part 112, and is therefore not required to have an SPCC Plan, an explanation supporting such determination, including appropriate documentation.

12) A list of all the oil storage capacity at the Facility, both underground and aboveground (including, tanks, drums, transformers, oil-filled systems, etc.) and the type of oil stored in each container. Indicate each container's age and method of construction (e.g., single or double wall, welded or riveted, steel or fiberglass). Also indicate whether any secondary containment is provided around each container, and, if so, its method of construction (earth berm, steel wall, concrete block wall, poured concrete wall) and the total volume it can contain. Under 40 C.F.R. § 112.2, "oil" is defined as oil of any kind or in any form including, but not limited to, petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes other than dredged spoil.

13)The date the Facility first started having the capacity to store oil above the SPCC regulatory thresholds set forth in 40 C.F.R. § 112.1(d)(1) (i.e., the SPCC-regulated underground oil storage capacity of the Facility is greater than 42,000 gallons -or- the aboveground oil storage capacity of the Facility is greater than 1,320 gallons).

14) The date the Facility first began operation and, if different, the date the current owner took over ownership of the Facility. If the Facility is operated by an entity other than the owner, also include the date the current operator took over operation of the Facility.

15) A list of additional facilities owned by Krevit, including the name, location, and total number of employees at each facility. For each additional facility listed, please provide the following information:

[3] Please note that if your Facility has an aboveground oil storage capacity of 10,000 gallons or less and meets the oil discharge history criteria as described in 40 C.F.R. § 112.3(g), you are no longer required to obtain professional engineer certification of the SPCC Plan. Instead, you may self-certify your Facility's SPCC Plan consistent with the requirements of 40 C.F.R. § 112.6. If you choose to self-certify, in addition to providing EPA with the self-certified SPCC Plan, provide an explanation (with documentation) supporting the determination that your Facility is a "qualified facility" as defined in 40 C.F.R. § 112.3(g).

a. Whether each additional facility is subject to the Oil Pollution Prevention regulations (40 C.F.R. Part 112);

b. For those facilities that are subject to the Oil Pollution Prevention regulations indicate whether the facility has a written, Professional Engineer-certified SPCC Plan or a written, self-certified SPCC Plan, and whether the SPCC Plan is being fully implemented at the facility; and

c. For facilities that are required to have an SPCC Plan but either do not have one or are not fully implementing their SPCC Plan, provide a time frame for when the facility is expected to be in compliance with the Oil Pollution Prevention regulations.

16)If the Facility is developing an updated SPCC plan, please also include the following information:

a. The cost of preparing the new SPCC Plan;

b. The cost of implementing the new SPCC Plan (including the cost of constructing additional secondary containment at the Facility); and

c. The ongoing annual costs of implementing the new SPCC Plan, over and above the annual costs of the old SPCC Plan (including training, inspections and record keeping).

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, within sixty (60) days of receipt of this letter can result in an enforcement action by EPA pursuant to RCRA and/or the Clean Water Act, which permits EPA to seek the imposition of penalties. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal prosecution under 18 U.S.C. § 1001. If information or documents not known or available to you as of the date of submission of your response to this request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find at any time after the submission of the response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible, and provide a corrected response.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information when it is received by EPA, the information may be made available to the public by EPA without further notice to you.

RCRA Notice of Potential Violations

While responding to the above request for information, Krevit should also take steps to address the following RCRA deficiencies observed by the inspectors during the RCRA inspection on March 18, 2009. The purpose of this inspection was, in part, to determine Krevit's compliance with the relevant hazardous waste management regulations for the State of Connecticut and the corresponding federal Hazardous Waste Management Regulations, found at 40 C.F.R. Parts 260-272.

1. Failure to inspect hazardous waste containers on a weekly basis
2. Failure to document weekly container inspections
3. Failure to make adequate waste determinations
4. Failure to separate possible incompatible materials
5. Failure to maintain hazardous waste containers closed
6. Failure to appropriately date containers of hazardous waste
7. Failure to appropriately label containers of hazardous waste
3. Failure to maintain a hazardous waste plan and records training
4. Failure to conduct hazardous waste training
5. Failure to develop and maintain a Contingency Plan
6. Failure to submit an updated copy of the Contingency Plan to local authorities
7. Failure to designate hazardous waste storage areas
8. Speculative accumulation of hazardous waste for greater than one year

The issuance of this letter and the NOV, AO, RR does not preclude EPA from electing to pursue further enforcement pursuant to the Clean Air Act, Resource Conservation and Recovery Act, Clean Water Act or any other federal statute that may apply.

If you have questions about this letter or the NOV, AO, and RR, please call Len Wallace at (617) 918-1835 or have your counsel call Catherine Smith, Esq. at (617) 981-1777. Krevit may request an opportunity to confer with EPA within five days of issuance of this NOV, AO, and RR by contacting Len Wallace or Catherine Smith at the telephone numbers listed above.

Sincerely,

Susan Studlien

Susan Studlien
Director, Office of Environmental Stewardship
EPA Region 1 – New England

cc: Catherine Smith, EPA
Len Wallace, EPA
Donald DeChello, Krevit
Timothy McLaughlin, New Haven Fire Dept.
Mark DeCarprio, Acting SERC Administrator, CT DEP

Enclosures:
(1) NOV, AO, RR
(2) Small Business Resources sheet