April 27, 2000

EXPRESS MAIL-
RETURN RECEIPT REQUESTED

Chemical Land Holdings, Inc.
Two Tower Center Boulevard, Floor 10
East Brunswick, New Jersey 08816
Attn.: Mr. Clifford Firstenberg, Project Manger

Re: Diamond Alkali Superfund Site Operable Unit Two
Passaic River Study Area
Remedial Investigation/Feasibility Study - Creel/Angler Survey

Dear Mr. Firstenberg:

As you know, the United States Environmental Protection Agency ("EPA") has been reviewing the June 1999 Creel/Angler Survey Work Plan submitted in connection with the RI/FS being conducted by Chemical Land Holdings ("CLH") pursuant to the Administrative Order on Consent ("AOC"), Index No. II-CERCLA-0117. As we discussed at our January 24, 2000 meeting, EPA is concerned that the proposed work will not meet the objectives of the RI/FS in accurately characterizing the contamination and potential risk in the Six Mile Study Area of the Passaic River.

In the course of EPA's review, we have consulted a variety of reference materials concerning fish consumption studies as we were attempting to furnish specific comments on the work plan CLH submitted. The information we have gathered during this review has inexorably led us to the conclusion that, under the circumstances prevailing in the Passaic River Study Area, it will be impossible to conduct a survey which will produce representative data that can be used in a risk assessment and a RI/FS. Consequently, a survey conducted in accordance with the submitted work plan would contain inherent uncertainties, with the result that any conclusions drawn from it would not be scientifically or logically supportable, and therefore could not be used in the risk assessment.

Specifically, we believe that the long-standing existence of an advisory against consumption of fish and other marine creatures from the Passaic River necessarily would introduce biases and uncertainties which would make it impossible to obtain accurate responses from those surveyed and, hence, valid data. Our review of other such studies reveal that fishing advisories may bias responses in angler surveys and, thus, underestimate exposures.

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For the reasons stated above, we have concluded that it will be pointless to attempt the proposed creel/angler study and that it therefore should be eliminated from the overall study plan and removed from the critical path for completion of the RI/FS. We recognize that this conclusion represents a change from EPA's position in 1995 when it favored inclusion of such a survey. We regret the change but note that it has been forced on all of us, CLH included, by experience and knowledge that simply were not available in 1995. Accordingly, we are not finalizing specific comments on the details of your submission and you should no longer consider the draft comments furnished to you earlier as implying in any way that we can or will approve the Survey Work Plan.

Since the time that EPA suggested the creel/angler study, EPA has evaluated and compiled data and information regarding fish ingestion rates for the general population, subsistence populations, and anglers. EPA's Office of Research and Development has completed a comprehensive evaluation of the available published literature on creel surveys for various geographic and population groups. These analyses are presented in the EPA 1997 Exposure Factors Handbook, Volume II, Food Ingestion Factors (EPA/600/P-95/002Fb), Chapter 10 (copy enclosed). This document includes information from a number of fish consumption surveys, including data for rivers not impacted by fish advisories. The report has involved reviews by external scientists throughout the development process.

Consequently, rather than use information from a creel survey in the risk assessment, fish ingestion rates from the Exposure Factors Handbook should be used to evaluate the cancer risks and non-cancer hazards to individuals. In order to represent a Reasonably Maximally Exposed individual the following fish ingestion rate and exposure duration should be used: a minimum of 25 grams per day for a minimum period of 30 years for the adult angler. In order to represent the Central Tendency Exposure, a minium ingestion rate of 8 grams per day for a period of 9 years should be used. In addition, the risk assessment should evaluate cancer risks and non-cancer hazards to individuals that consume crabs only, and a population that consumes both fish and crabs. Obviously, the risk assessment would also have to conform with all applicable guidance, policy, and guidelines.

In accordance with Paragraph 47(d) of the AOC, EPA hereby disapproves CLH's draft Creel/Angler Survey Work Plan. Furthermore, EPA will not be conducting all or any part of the Creel/Angler Survey Work Plan for the same reasons discussed in this letter. Paragraph 49(b) of the AOC provides CLH with the opportunity to have a conference with the EPA to discuss the disapproval. CLH has already requested such a meeting through its counsel. Please call me at your earliest convenience to schedule this meeting, which should be held within ten days of receipt of this letter.

We also hope to begin discussing the risk assessment protocols at this meeting or in the near future.

Sincerely yours,

Sharon Jaffess, Remedial Project Manager
Emergency & Remedial Response Division

Enclosure.

cc: Jonathan Berg, NJDEP
Anne Hayton, NJDEP
Kerry Kirk Pflugh, NJDEP

bcc: Kedari Reddy, ORC
Pat Hick, ORC
Janet Conetta, ERRD
Del Karlen, ORC