UNITED STATES ENVIRONMENTAL PROTECTION AGENCY - REGION II
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

SEP 28 1995

VIA CERTIFIED MAIL--
RETURN RECEIPT REQUESTED

Re: Request for Information Pursuant to Section 104(e) of CERCLA, 42 U.S.C. § 9604(e); Bayonne Barrel & Drum, Superfund Site, 150-154 Raymond Boulevard, Newark, Essex County, New Jersey

Dear Sir or Madam:

The United States Environmental Protection Agency ("EPA") is charged with responding to the release or threatened release of hazardous substances, pollutants, and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9601 et seq.

EPA has documented the release of hazardous substances into the environment at a parcel of property herein referred to as the "Bayonne Barrel & Drum Site" or the "Site," located at 150-154 Raymond Boulevard, Newark, Essex County, New Jersey.

In order to determine the need for a response to a release or threatened release of a hazardous substance, pollutant or contaminant, choose or take a response action, or otherwise enforce the provisions of CERCLA, EPA may, pursuant to Sections 104(e)(1) and 104(e)(2) of CERCLA, require parties to provide information relating to the materials generated, treated, stored or disposed of at or transported to a facility, the nature or extent of a release or threatened release of a hazardous substance, pollutant or contaminant at or from a facility, and the ability of a person to pay for or perform a cleanup.

Pursuant to the statutory provisions cited above, EPA hereby requires that you answer the questions in the attached "Request for Information." If your company has an EPA Identification Number, kindly enclose it in your response. The notarized signature of an officer or other responsible official of the company must appear on the enclosed "Certification of Answers to Request for Information," which must be attached to the response to this information request letter.

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The Company's response to this Request for Information should be postmarked or received at EPA within thirty (30) calendar days of the date of this letter, and should be mailed to:

Joseph Cosentino, OSC
Removal Action Branch
Emergency and Remedial Response Division
U.S. Environmental Protection Agency, Region II
2890 Woodbridge Avenue
Edison, NJ 08837

with a copy to:

Marc Seidenberg, Esq.
Office of Regional Counsel
U.S. Environmental Protection Agency, Region II
290 Broadway, 17th Floor
New York, NY 10007.

Your company's failure to comply in all respects with this Request for Information within the time specified above may subject it to an enforcement action under Section 104(e)(5) of CERCLA. Such an enforcement action may include the assessment of penalties of up to $25,000 per day for each day of continued noncompliance.

Be advised that the company is under a continuing obligation to supplement its response if information not known or not available to the company as of the date of the submission of its response should later become known or available to the company. If at any time in the future the company obtains or becomes aware of additional information and/or finds that any portion of the submitted information is false, misleading, or misrepresents the truth, you must notify EPA. If any part of the company's response is found to be untrue, the signatory and the company may be subject to criminal prosecution.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§3501-3520.

You may, if you so desire, assert a business confidentiality claim covering all or part of the information requested by this letter. A business confidentiality claim may be asserted by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret", "proprietary", or "company confidential". Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by you, and may be submitted separately to facilitate identification and handling by EPA. If you desire confidential treatment of some or all of the information only until a certain date or until the occurrence of a certain event, your notice should so state.

Information covered by a business confidentiality claim will be

disclosed by EPA only in accordance with and by means of procedures set forth in 40 CFR Part 2, Subpart B, and Section 104(e)(7) of CERCLA. If you do not make such a claim when you submit your response to the attached Request for Information, your response may be made available to the public without further notice to you. You should read the above-cited statutory and regulatory provisions carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim.

If you have any questions about this letter, you may contact the Bayonne Barrel and Drum Hotline at (908) 321-4433. Your cooperation is appreciated.

Sincerely yours,

for Kathleen C. Callahan,
Director, Emergency and Remedial Response Division

Attachment

INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION

A. Directions

1. A complete and separate response should be given for each question.

2. Identify each answer with the number of the question to which it is addressed.

3. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the question to which it applies.

4. In preparing your response to each question, consult with all present and former employees and agents of your company whom you have reason to believe may be familiar with the matter to which the question pertains.

5. In answering each question, identify each individual and any other source of information (including documents) that was consulted in the preparation of the response to the question.

6. If you are unable to give a detailed and complete answer, or to provide any of the information or documents requested, indicate the reason for your inability to do so.

7. If you have reason to believe that an individual other than one employed by your company may be able to provide additional details or documentation in response to any question, state that person's name, last known address, phone number and the reasons for your belief.

8. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, number of pages, and all recipients of the document with their addresses.

9. If anything is omitted or deleted from a document produced in response to this Request for Information, state the reason for and the subject matter of the omission or deletion.

10. If you cannot provide a precise answer to a question, please approximate but, in any such instance, state the reason for your inability to be more specific.

11. Whenever this Request for Information requests the identification of a natural person, or other entity, the person or entity's full name and present or last known address also should be provided.

12. Interpret "and" as well as "or" to include within the scope of the question as much information as possible. If two or more interpretations of a question are possible, use the one that provides more information.

13. In answering these questions, every source of information to which you have access should be consulted, regardless of whether the source is in your immediate possession or control. All documents or other information, including records of all types of manufacturing, treatment, transportation or disposal operations, in your possession or in the possession of the Company should be consulted. If you do not have access to certain information and/or documents, state the nature of this information and/or documents, and indicate in whose possession they can be found.

14. For each of the questions presented below, send copies of all records, writings or other documents that relate to each such question.

B. Definitions

1. As used herein, the terms "Bayonne Barrel & Drum" or the "Site" shall refer to approximately fifteen acres of property located at 150-154 Raymond Boulevard in Newark, Essex County, New Jersey and identified as Lots 3 and 14 of Block 5002.

2. As used herein, the term "hazardous substance" shall have the meaning set forth in Section 101(14) of CERCLA, 42 U.S.C. §9601(14). The substances which have been designated as hazardous substances pursuant to Section 102(a) of CERCLA (which, in turn, comprise a portion of the substances that fall within the definition of "hazardous substance" under Section 101(14) of CERCLA) are set forth at 40 CFR Part 302.

3. As used herein, the terms "hazardous waste," "disposal" and "storage" shall have the meanings set forth in Sections 1004(5), (3) and (33) of RCRA, 42 U.S.C. §6903(5), (3) and (33), respectively.

4. As used herein, the term "industrial waste" shall mean any solid, liquid or sludge or any mixtures thereof which possess <u>any</u> of the following characteristics:

   a. it contains one or more "hazardous substances" (at any concentration) as defined in 42 U.S.C. §9601(14);
   b. it is a "hazardous waste" as defined in 42 U.S.C. §6903(5);
   c. it has a pH less than 2.0 or greater than 12.5;
   d. it reacts violently when mixed with water;
   e. it generates toxic gases when mixed with water;
   f. it easily ignites or explodes;
   g. it is an industrial waste product;
   h. it is radioactive;
   i. it is an industrial treatment plant sludge or supernatant;
   j. it is an industrial byproduct having some market value;
   k. it is coolant water or blowdown waste from a coolant system;
   l it is a spent product which could be reused after rehabilitation; or
   m it is any material which you have reason to believe would be toxic if either ingested, inhaled or placed in contact with your skin.

5. As used herein, the term "release" and "person" shall have the meaning set forth in Section 101(22), and (21) of CERCLA, 42 U.S.C. §9601(14), and (21), respectively.

6. As used herein, the terms "the Company" and "your Company" refer not only to the addressee as it is currently named and constituted, but also to all of its predecessors- or successors-in-interest and the subsidiaries, divisions, affiliates, and branches of the addressee and their predecessors- or successors-in-interest.

7. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in CERCLA or RCRA, in which case the statutory definitions apply.

REQUEST FOR INFORMATION

1. General Information About the Company

   a. State the correct legal name of the Company.

   b. Identify the legal status of the Company (corporation, partnership, sole proprietorship, specify if other) and the state in which the Company was organized.

   c. State the names(s) and address(es) of the President and the Chairperson of the Board of the Company.

   d. If the Company has subsidiaries or affiliates, or is a subsidiary of another organization, identify these related companies and state the names(s) and address(es) of the President(s) and the Chairperson(s) of the Board of those organizations. Provide such information for any further parent/subsidiary relationships.

   e. If the Company is a successor to, or has been succeeded by, another company, identify such other company and provide the same information requested above for the predecessor or successor company.

   f. If the Company transacted business with Bayonne Barrel & Drum in the name of an entity not disclosed above, give the name of such entity and state its relationship to the Company.

2. Company's Relationship to Bayonne Barrel & Drum

   a. State whether the Company or any Company facility transacted any business with Bayonne Barrel & Drum for the disposal, treatment, or storage of any barrels, drums, or other containers (hereinafter collectively referred to as "Containers").

      i. If so, describe the relationship (nature of services rendered or products sold to the Company) between the Company and Bayonne Barrel & Drum;

      ii. Provide copies of any contracts or agreements between the Company and Bayonne Barrel & Drum;

iii. For each such facility, state the nature of the operations conducted at the facility, including the time period in which the facility operated; and

iv. For each such facility, state its name, address, and current RCRA Identification Number.

b. In addition, if the Company transacted business with Bayonne Barrel & Drum, provide the following information for each transaction:

i. Identify the specific dates of each transaction. Where an exact date cannot be provided for a transaction, provide an approximation by month and year;

ii. Identify the number of Containers that were the subject of each such transaction;

iii. Generically describe each Container that was the subject of each such transaction (example: closed-head steel drums, etc.);

iv. Identify the intended purpose of each such transaction;

v. State whether each Container that was the subject of the transaction contained any substance at the time of the transaction. As to each Container that contained any substance:

(1) Identify each such substance, including its chemical content, physical state, quantity by volume and weight, and other characteristics; and

(2) Provide all written analyses that may have been made for each such substance or which may be in the custody or control of the Company and all material safety data sheets, if any, relating to each such substance;

vi. If you contend that any such Container did not contain any substance at the time of the transaction:

(1) State whether such Container had previously been used by the Company to contain any substance, and if so:

(a) Identify all substances previously contained within such Container, including its chemical content, physical state, and other characteristics; and

(b) Provide as to such substances, all written analyses that may have been made for each such substance or which may be in the custody or control of the Company and all material safety data sheets, if any, relating to each such substance;

vii. Describe in detail any treatment of any Container that may have been performed by or on behalf of the Company prior to the time that the Container was transferred from the Company, including any process or procedure by which the Container was emptied or cleaned;

viii. Provide copies of all documents relating in any way to each transaction, including copies of delivery receipts, invoices, or payment devices;

ix. Identify all persons who might have knowledge of the transaction or who had any responsibility regarding the transaction; and

x. If you sent any Container by means of any third party transporter, identify each such transporter, including the name and address of such transporter, and identify in which of the transactions such transporter acted.

3. Identify any other person (e.g., individual, company, partnership, etc.) having knowledge of facts relating to the questions which are the subject of this inquiry. For each such person that you identify, provide the name, address, and telephone number of that person, and the basis of your belief that he or she has such knowledge. For past and present employees, include their job title and a description of their responsibilities.

4. Identify each person consulted in responding to these questions and correlate each person to the question on which he or she was consulted.

5. Provide a list of all insurance policies and indemnification agreements held or entered into by you that may indemnify you against any liability that you may be found to have under CERCLA. Specify the insurer, type of policy, effective dates, and state per occurrence policy limits for each policy. Copies of policies may be provided in lieu of a narrative response. In response to this request, please provide not only those policies and agreements that are currently in effect, but also those in effect since your company began sending Containers to the Site.

6. State whether there exists any agreement or contract (other than an insurance policy) which may indemnify the Company, present or past directors, officers or owners of shares in the Company, for any liability that may result under CERCLA. Provide a copy of any such agreement or contract. Identify any agreement or contract that you are unable to locate or obtain.

7. Supply any additional information or documents that may be relevant or useful to identify other sources who disposed of or transported Containers to the Site.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of _____

County of _____

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

_____
NAME (print or type)

_____
TITLE (print or type)

_____
SIGNATURE

Sworn to me before this

day of , 1995

_____
Notary Public

Is your RETURN address completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write *"Return Receipt Requested"* on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

D.A. STUART OIL CO.
2727 SO. TROY STREET
CHICAGO IL 60623

4a. Article Number

2 085 459 887

Type

red ☒ Certified

Mail ☐ Insured

eceipt for Merchandise ☐ COD

Delivery

5. Received By: *(Print Name)*

6. Signature: *(Addressee or Agent)*

X

8. Addressee's Address *(Only if requested and fee is paid)*

PS Form **3811**, December 1994

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ATTN: SUZANNE BECKER

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REGION II
2890 WOODBRIDGE AVENUE
EDISON, NEW JERSEY 08837-3679

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