UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

June 12, 2017

CERTIFIED MAIL

Motiva Enterprises, LLC
c/o John McGahren
Morgan, Lewis & Bockius LLP
502 Carnegie Center
Princeton, New Jersey 08540-6241

Re: Newtown Creek Superfund Site, Kings County and Queens County, New York
Notice of Potential Liability Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sections 9601-9675

Dear Mr. McGahren:

The U.S. 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, as amended ("CERCLA"), 42 U.S.C. §§ 9601-9675, (also known as the "Superfund" law). More information about CERCLA, including a copy of the Superfund law, may be found at www.epa.gov/superfund.

EPA has documented the release and threatened release of hazardous substances into the environment at the Newtown Creek Superfund Site (the "Site"), located in Kings County and Queens County, New York. The Site includes a body of water located in Kings County and Queens County in the City of New York and the State of New York. Newtown Creek is a tidal arm of the New York-New Jersey Harbor Estuary that forms the northwestern-most border between the New York City boroughs of Brooklyn and Queens. It is a tributary of the East River and includes Newtown Creek proper and its five branches (or tributaries) which are known, respectively, as Dutch Kills, Maspeth Creek, Whale Creek, East Branch and English Kills, along an approximately 3.8-mile reach. References in this letter to "Newtown Creek" are meant to include Newtown Creek proper and its tributaries.

The Site has been listed on the national priorities list, a list of national priorities among the known releases and threatened releases throughout the United States, which list was established and is updated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605. In response to the release and threatened release of hazardous substances into the environment at the Site, EPA has

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spent public funds and anticipates spending additional public funds pursuant to CERCLA in performance of response actions at or in connection with the Site.

Hazardous substances from facility operations upland of Newtown Creek may have entered Newtown Creek via several transport pathways or mechanisms, including spills or leaks at or from upland facilities occurring during facility operations, direct disposal to Newtown Creek, contaminated groundwater discharge, surface water runoff, storm water discharge and contaminated soil erosion.

By letter dated October 25, 2011, a copy of which is attached to this letter, EPA wrote to Motiva Enterprises, LLC (the "Company") concerning the Site. EPA's October 25, 2011 letter provided background information on the Site, advised the Company of EPA's concern that operations at a Company owned and operated facility adjacent to Newtown Creek (identified below) may have resulted in the discharge of hazardous substances to Newtown Creek, and requested information pursuant to Section 104(e) of CERCLA, including information relating to Company operations at that facility. EPA sent a similar letter to Shell Oil Company that was also dated October25, 2011, and that concerned the same facility. The Company responded by joint response with Shell Oil Company dated January 30, 2012.

Site Status

In July 2011, EPA issued an administrative settlement agreement and order on consent ("Consent Order") to six potentially responsible parties ("PRPs"), requiring the respondents' performance, under EPA oversight, of a remedial investigation ("RI") and Feasibility Study ("FS") at a "Study Area" of the Site, defined in the Consent Order as the waters and sediments of Newtown Creek. The consent order also requires respondents to reimburse EPA for certain past response costs incurred by EPA for the Site prior to the issuance of the Consent Order, and to reimburse EPA for future response costs expected to be incurred by EPA after the issuance of the Consent Order in overseeing the work under the Consent Order. These respondents are five privately owned companies (which have organized as the "Newtown Creek Group") and the City of New York. The Newtown Creek Group consists of Phelps Dodge Refining Corporation, Texaco, Inc., BP Products North America Inc., The Brooklyn Union Gas Company d/b/a National Grid NY, and ExxonMobil Oil Corporation.

The respondents have been performing the RI pursuant to the Consent Order since July 2011. Sampling events during the RI have shown the sediments in Newtown Creek to be contaminated with a variety of hazardous substances that are present in almost the entire length of the Creek, and that include a wide variety of hazardous substances including, but not limited to, polychlorinated biphenyls, metals, pesticides, polycyclic aromatic hydrocarbons, and volatile organic contaminants.

EPA is currently reviewing a draft RI report that was submitted by respondents in November 2016. The FS Workplan is currently being developed, with the final FS Workplan anticipated for the Summer of 2017. FS field activities began earlier this Spring of 2017 and are scheduled to

continue through the Summer of 2018. EPA's current schedule anticipates that the draft FS report will be submitted by respondents in early 2018, with a completion date for the RI/FS by late 2018, a proposed remedial alternative by late 2019 or early 2020 and EPA's selection of a remedy for the Creek documented by a Record of Decision by late 2020. Thereafter, EPA would seek those parties liable under the Superfund liability scheme to implement the selected remedy pursuant to a judicial consent decree.

Notice of Potential Responsibility

Under CERCLA and other laws, responsible parties may be held liable for monies expended by the federal government in taking response actions at and around sites where hazardous substances have been released, including investigative, planning, removal, remedial and enforcement actions. Responsible parties also may be subject to orders requiring them to take response actions themselves.

Responsible parties under CERCLA include a current or past owner or operator of a facility or a person who has arranged for disposal or treatment of hazardous substances at a facility, from which there is a release or a threatened release of a hazardous substance which causes the incurrence of response costs.

EPA has evaluated information obtained in connection with the Site that indicates that hazardous substances were released from the facility located at 25 Paidge Avenue, Brooklyn, New York 11222 (Borough of Brooklyn, Block 2491, Lot 1), that your facility was owned and operated by the Company as a petroleum bulk storage and transfer facility, and that the Company or its predecessors have owned or operated the facility for such purposes from approximately 1930 through approximately 2013. The facility is located adjacent to Newtown Creek, and EPA has reason to believe that hazardous substances have come to be released from the facility into Newtown Creek. Thus, by this letter, EPA is notifying you that EPA has reason to believe that the Company is a potentially responsible party with respect to the Site pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

In addition to the Company, additional PRPs for the Site include the six entities identified above in this letter who are the respondents to the Consent Order and the other entities identified on Attachment A to this letter. EPA will notify the Company as additional PRPs are identified and notified by EPA.

The Newtown Creek Group is represented by common counsel David Bridgers, whose contact information is provided on Attachment B, and the City of New York is represented by Susan Amron, whose contact information is also provided on Attachment B. Counsel for the Newtown Creek Group and for the City of New York are copied on this letter, and EPA anticipates that the Company will be contacted by those counsel concerning the Company's future participation in RI/FS activities at the Site or other PRP-lead response action at the Site. Should the Company choose or desire to participate as an additional respondent under the AOC, such participation would need to be pursuant to such terms and conditions as may be required by EPA, and upon

other terms and conditions as may be agreed by and among the Company and the respondents to the Consent Order.

If you have any questions regarding this Notice of Potential Liability or otherwise regarding the Site, please contact Michael A. Mintzer (212-637-3168 or mintzer.michael@epa.gov) of EPA Region 2's Office of Regional Counsel with respect to legal matters, or, with respect to technical matters, please contact Caroline Kwan (212-637-4275 or kwan.caroline@epa.gov)) or Mark Schmidt (212-637-3886 or schmidt.mark@epa.gov) of EPA Region 2's Emergency and Remedial Response Division who are EPA's co-Remedial Project Managers for the Site.

Sincerely yours,

Eric J. Wilson, Deputy Director for Enforcement and Homeland Security
Emergency and Remedial Response Division

cc: Brian Faulkner, Esq.
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Newtown Creek Group Coordinating Counsel

Susan Amron, Esq., Chief (by e-mail)
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Attachment A
To letter from EPA dated June 12, 2017
Newtown Creek Site Currently Identified PRPs

Phelps Dodge Refining Corporation[1]
Texaco, Inc.[1]
BP Products North America Inc.[1]
The Brooklyn Union Gas Company d/b/a National Grid NY[1]
ExxonMobil Oil Corporation[1]
The City of New York[2]
Simsmetal East LLC
Consolidated Edison Company of New York, Inc.
National Railroad Passenger Corporation (AMTRAK)
American Premier Underwriters, Inc.
Connell Limited Partnership
The Long Island Railroad Company
Motiva Enterprises, LLC
Shell Oil Company

[1] Newtown Creek Group member and respondent under the Consent Order
[2] Respondent under the Consent Order

Attachment B
To letter from EPA dated June 12, 2017
Contact Information for PRP Counsel

Newtown Creek Group Common Counsel (see Attachment A for Newtown Creek Group PRPs)

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