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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
ENVIRONMENTAL
CLEANUP

GENERAL NOTICE LETTER
URGENT LEGAL MATTER
PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

October 7, 2015

Thomas E. Mesevage
Corporate Environmental Counsel
Vertellus Specialties, Inc.
900 Lanidex Plaza, Suite 250
Parsippany, NJ 07054-2739

Re: General Notice Letter and Invitation to Negotiate Pre-Remedial Design ASAOC for the Quendall Terminals Superfund Site in Renton, WA

Dear Mr. Mesevage:

This letter provides notice of the U.S. Environmental Protection Agency's determination that the Vertellus Specialties, Inc. ("Vertellus") has potential responsibility under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, "CERCLA" or "Superfund"), 42 U.S.C. § 9607(a), for the cleanup of the Quendall Terminals Superfund Site, including all costs incurred by the EPA in responding to releases at the Site. By this letter, the EPA is also providing Vertellus an opportunity to perform pre-Remedial Design at the Site pursuant to the enclosed administrative settlement agreement and order on consent, "ASAOC."

Background

Based on a review of records related to the release and/or disposal of hazardous substances at the Site, as well as the responses to the CERCLA information requests which the EPA received, the EPA has identified Vertellus as one of approximately six potentially responsible parties, "PRPs," that contributed hazardous substances to the Site. Under the federal Superfund law, Vertellus and the other PRPs at the Site are responsible for the costs of cleaning up the Site.

Under CERCLA, specifically Sections 106(a) and 107(a), the PRPs may be required to perform cleanup actions to protect the public health, welfare, or the environment. The PRPs may also be responsible for costs incurred by the EPA in cleaning up the Site, unless the PRP can demonstrate divisibility or assert one of the statutory defenses. The PRPs include current and former owners and operators of a Site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the site, and persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

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Status of Site Cleanup

The EPA listed the Quendall Terminals Superfund Site on the National Priorities List on April, 19, 2006. The EPA and the current owners of the Site, Altino Properties and J.H. Baxter, entered into an ASAOC for the performance of a Remedial Investigation and Feasibility Study for the Site on September 8, 2006. These parties have nearly completed the RI/FS. After the RI/FS is completed, the EPA will identify a preferred remedial approach for the Site in a proposed plan and provide the public with an opportunity to comment on its preferred remedial approach. After the public comment period has closed, the EPA will select remedial actions for the Site in a Record of Decision. The EPA believes that the information that has been developed during the RI/FS provides it with the basis to select a remedy for the Site and anticipates that it will select a remedy in the near future and in parallel to the performance of the requested pre-Remedial Design studies.

Offer to Negotiate

As noted above, the EPA is inviting Vertellus and the other PRPs to negotiate an ASAOC for pre-Remedial Design studies at the Site. The pre-Remedial Designs studies will supplement the information developed during the RI/FS and provide the EPA and the PRPs with more information regarding the scope of the contamination subject to cleanup and areas of the Site which may be available for reuse after cleanup. The EPA believes these studies will facilitate a more timely and efficient cleanup of the Site. A draft ASAOC and statement of work for the pre-Remedial Design studies is enclosed with this letter. Consistent with the special notice procedures of Section 122(e) of CERCLA, the EPA requests that you provide it with a written response with its offer to negotiate within forty-five days of the date this letter is received. The EPA will evaluate the written responses it has received to determine whether it has receive a good faith offer to perform the requested pre-Remedial Design studies. The EPA requests that the PRPs work together to develop a single good faith offer.

To assist Vertellus and the other PRPs in developing a response, the EPA requests that you attend a meeting at the Region 10 office in Seattle at 10 a.m. on Wednesday, November 4, 2015. During this meeting you will have an opportunity to discuss the scope of the pre-Remedial Design Study, the ASAOC, and the remedy selection process for the Site with the EPA staff.

Good Faith Offer

As noted above, a proposed ASAOC and Statement of Work are enclosed to assist you in developing a "good faith offer." A "good faith offer" to conduct or finance the pre-Remedial Design studies is a written proposal that demonstrates the qualifications and willingness of the PRPs to conduct or finance the pre-Remedial Design studies, and includes the following elements:

- A statement of willingness by the PRPs to conduct or finance pre-Remedial Design studies that is consistent with the EPA's Statement of Work and draft Administrative Order and provides a sufficient basis for further negotiations;

- A paragraph-by-paragraph response to the EPA's Statement of Work and draft ASAOC;
- A detailed description of the work plan identifying how the PRPs plan to proceed with the work;
- A demonstration of the PRPs' technical capability to carry out the pre-Remedial Design studies, including the identification of the firm(s) that may actually conduct the work or a description of the process they will use to select the firm(s); and
- The name, address, and phone number of the party or steering committee who will represent the PRPs in negotiations.

To assist the PRPs in negotiating with the EPA concerning this matter, the EPA is attaching to this letter a list of the names and addresses of other PRPs to whom it is sending this Notice. The EPA encourages you to contact Lynn Manolopoulos, counsel for Altino, Inc., before the November 10th meeting in Seattle.

Administrative Record Site File

In accordance with Section 113 of CERCLA, 42 U.S.C. § 9613, the EPA has established an Administrative Record Site file containing the documents that may serve as the basis for the EPA's selection of the appropriate response action for the Site. This Administrative Record Site file is available for inspection at the EPA Region 10 Superfund Records Center. You may wish to review the Administrative Record Site file to assist you in responding to this letter, but your review should not delay a timely response to this letter.

PRP Response and EPA Contact Person

You are encouraged to contact the EPA within forty-five days of the date this letter is received to indicate your willingness to participate in future negotiations concerning this Site. You may respond individually or through a steering committee if such a committee has been formed. If the EPA does not receive a timely response, the EPA will assume that you do not wish to negotiate a resolution of your liabilities in connection with the Site, and that you have declined any involvement in performing the response activities.

Your response to this letter, including written proposals to perform the pre-Remedial Design studies for the Site, should be sent to:

Claire Hong
United States Environmental Protection Agency, Region 10
1200 Sixth Avenue (ECL-122)
Seattle, WA 98101
(206) 553-1813
hong.claire@epa.gov

The factual and legal discussions in this letter are intended solely to provide notice and information, and such discussions are not to be construed as a final EPA position on any matter set forth herein. Due to the seriousness of the environmental and legal problems posed by the conditions at the Site, the EPA urges that you give immediate attention and prompt response to this letter.

Resources and Information for Small Businesses

As you may be aware, on January 11, 2002, President Bush signed into law the "Small Business Liability Relief and Brownfields Revitalization Act" (SBLRBRA). This Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may download a copy of the law at http://www.gpo.gov/fdsys/pkg/PLAW-107publ118/pdf/PLAW-107publ118.pdf and review EPA guidances regarding these exemptions at http://cfpub.epa.gov/compliance/resources/policies/cleanup/superfund/.

The EPA has created a number of helpful resources for small businesses. The EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers which offer various forms of resources to small businesses. You may inquire about these resources at http://www2.epa.gov/compliance/compliance-assistance-centers. In addition, information on contacting the EPA's Small Business Ombudsman is available at http://www.epa.gov/sbo. Finally, the EPA has developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act (SBREFA) and information on resources for small businesses, which is enclosed with this letter and available on the Agency's website at http://www2.epa.gov/compliance/small-business-resources-information-sheet.

If you have any questions regarding the technical aspects of this letter, please contact Claire Hong, Remedial Project Manager, at (206) 553-1813 or hong.claire@epa.gov. If you have an attorney handling your legal matters, please direct his or her questions to Ted Yackulic, Assistant Regional Counsel, at (206) 553-1218 or yackulic.ted@epa.gov.

My staff and I look forward to working with you during the coming months.

Sincerely,

Shawn Blocker, Unit Manager
Site Cleanup Unit 3

Attachments

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Thomas E. Mesevage
Corporate Environmental Counsel
Vertellus Specialities, Inc.
900 Lanidex Plaza, Suite 250
Parsippany, NJ 07054-2739

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Thomas E. Mesevage
Corporate Environmental Counsel
Vertellus Specialities, Inc.
900 Lanidex Plaza, Suite 250
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