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

OFFICE OF
ENVIRONMENTAL CLEANUP

July 20, 2009

SENT CERTIFIED RETURN RECEIPT

Nina E. Butler
Vice President & Senior Environmental Counsel
Smurfit-Stone Container Enterprises Incorporated
3700 Crestwood Parkway, Suite 850
Duluth, Georgia 30096

Re: General Notice Letter for the Portland Harbor Superfund Site in Portland, Oregon

Dear Ms. Butler:

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the federal "Superfund" law, the U.S. Environmental Protection Agency (EPA) is responsible for responding to the release or threat of release of hazardous substances, pollutants or contaminants into the environment – that is, for stopping further contamination from occurring and for cleaning up or otherwise addressing any contamination that has already occurred. EPA has documented that such a release has occurred at the Portland Harbor Superfund Site (the Site) located in Portland, Oregon. EPA has spent, or is considering spending, public funds to investigate and control releases of hazardous substances or potential releases of hazardous substances at the Site. Other parties have spent and are spending funds to conduct a remedial investigation and feasibility study. Based on information presently available to EPA, EPA has determined that Smurfit-Stone Container Enterprises Incorporated may be responsible under CERCLA for cleanup of the Site or costs EPA and others have incurred in cleaning up the Site.

Explanation of Potential Liability

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a), a Potentially Responsible Party (PRP) or parties may be required to perform response actions deemed necessary by EPA to protect the public health, welfare, or the environment, and may be responsible for the costs incurred by the government in responding to any release or threatened release at the Site. Such actions and costs may include, but are not limited to, a preliminary assessment and site investigation in order to gain an understanding of any risks posed by releases or threatened releases for the Site to human health and the environment, conducting a removal response action at the Site, expenditures for conducting a Remedial Investigation/Feasibility Study (RI/FS), conducting a Remedial Design/Remedial Action (RD/RA), and other investigation, planning, response, oversight, and enforcement activities. In addition, PRPs may be required to pay for damages to, destruction of, or loss of natural resources, including the costs of assessing such damages.

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EPA has evaluated information in connection with the investigation of the Site performed to date and believes that Smurfit-Stone Container Enterprises Incorporated may be a PRP with respect to this Site. PRPs under CERCLA include current owners or operators of the Site; former owners or operators of the Site at the time of disposal of any hazardous substances; persons who arranged for disposal, treatment or transport of hazardous substances at the Site; or persons who accepted hazardous substances for transport to the Site. Specifically, EPA has reason to believe that hazardous substances have been or are being released from the facility(ies) located at 9930 North Burgard Way and 12005 WI/ North Burgard Street, in Portland, Oregon, into the "study area" for the Portland Harbor Superfund Site, which is River Mile 2 to River Mile 12.

To date, EPA and other parties have taken several response actions at the Site under the authority of the Superfund Program. Below is a brief description of some of the actions taken at the Site:

- A Preliminary Assessment (PA) and Site Investigation (SI) in order to gain a basic understanding of any risks posed to human health and/or the environment by releases or threatened releases from the Site.

- A Remedial Investigation (RI) to identify the Site characteristics and to define the nature and extent of soil, air, surface water, and groundwater contamination at the Site and the risks posed by the Site.

- A Feasibility Study (FS) to evaluate different cleanup options for the Site.

Information to Assist You

EPA would like to encourage communication between you, other PRPs, and EPA at the Site. To assist you in your efforts to communicate, we have attached a list of names and addresses of PRPs identified to date for the Site. Additionally, EPA has an internet website for the Portland Harbor Superfund Site at:

http://yosemite.epa.gov/R10/CLEANUP.NSF/sites/ ptldharbor.

EPA is encouraging PRPs to convene a mediated allocation process. Through such a process PRPs work together to allocate the cleanup costs and work through intra-party issues to prepare for future negotiations with EPA for performance of the cleanup and reimbursement of response costs after EPA has issued its Record of Decision for the Portland Harbor Superfund Site. A comprehensive settlement for performance of all work and reimbursement of response costs will avoid litigation and significant transaction costs to you and your company. A group of PRPs have formed a convening group to start this effort. Below is a contact person for the Convening Group:

Stephen Parkinson
Groff Murphy, PLLC
300 East Pine Street
Seattle, Washington 98122
(206) 832-1484
sparkinson@GroffMurphy.com

Resources and Information for Small Businesses

As you may be aware, on January 11, 2002, President George W. Bush signed into law the Superfund Small Business Liability Relief and Brownfields Revitalization Act. This Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may obtain a copy of the law via the Internet at http://www.epa.gov/swerosps/bf/sblrbra.htm and review EPA guidance regarding these exemptions at http://www.epa.gov/compliance/resources/policies/cleanup.

EPA has created a number of helpful resources for small businesses. 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://www.epa.gov. In addition, the EPA Small Business Ombudsman may be contacted at http://www.epa.gov/sbo. Finally, EPA developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act (SBREFA), which is enclosed with this letter.

Please give these matters your immediate attention and consider consulting with an attorney. If you have any technical questions regarding the Portland Harbor Superfund Site, you may contact Kristine Koch, Remedial Project Manager, at (206) 553-6705. If you have legal questions about this letter, please contact Lori Houck Cora, Assistant Regional Counsel at (206) 553-1115. Thank you for your prompt attention to this matter.

Sincerely,

Daniel D. Opalski, Director
Office of Environmental Cleanup

Enclosures

cc: Ms. Deb Yamamoto
U.S. EPA, Office of Environmental Cleanup

Ms. Kristine Koch
U.S. EPA, Office of Environmental Cleanup

Ms. Lori Houck Cora
U.S. EPA, Office of Regional Counsel