



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

290 BROADWAY

NEW YORK, NEW YORK 10007-1866

JAN 20 2009

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Clean Venture/Cycle Chem, Inc.
201 South First Street
Elizabeth, NJ 07206

Michael L. Krancer
Assistant General Counsel, Environmental Health and Safety
Exelon Business Services Company.
2301 Market Street
Philadelphia, PA 19101

Larry Sears
Goodyear Rubber Co. of Southern California
8833 Industrial Lane
Rancho Cucamonga, CA 91730

Robert Alessi
(obo Rochester Gas and Electric Corp. and New York State Electric & Gas)
LeBoeuf, Lamb, Greene & MacRae
One Commerce Plaza
Suite 2020
99 Washington Avenue
Albany, NY 12210-2820

RE: Change in Status from Major Party to De Minimis Party and De Minimis Settlement Offer Pursuant to Section 122(g) of CERCLA; Mercury Refining Company Superfund Site

Dear Sir/Madam:

This letter is written to advise you of a change in your company's, or client's, status from major party to *de minimis* party at the Mercury Refining Superfund Site ("Site"). As fully described in the letter attached hereto as Attachment 1, the Environmental Protection Agency ("EPA") is withdrawing the *de minimis* settlement offer made on October 26, 2005 and issuing a revised settlement offer due to comments received during the public comment period on the October 2005 *de minimis* settlement offer. Attachment 2 of that letter is EPA's response to the comments. Specifically, EPA agrees generally with the commentors that a change in operations at the Site limits the contribution of those parties who sent shipments of mercury and/or mercury-containing material to the Site after February 15, 1994 (not 1993 as stated by the

commentors), when new state-of-the-art retorts were operational.

EPA has also reconsidered its decision to exclude mercury-containing batteries from the waste-in list. As discussed more fully in the Updated Questions & Answers ("Updated Q&A") attached hereto as Attachment 1, EPA has re-evaluated its position on batteries and has now included as waste batteries containing mercury which were sent to the Site from locatable parties before May 11, 1995 when the Universal Waste Rule, 40 CFR Part 273, which specifically regulated the recycling of batteries, was enacted.

In addition to the inclusion of batteries, for settlement purposes only, the revised *de minimis* offer provides an 85% discount for all mercury and/or mercury containing materials sent to the Site after February 15, 1994 (and as to batteries sent between February 15, 1994 and May 11, 1995), thereby reducing the post-February 15, 1994 contribution attributable to such parties by 85%. EPA considers all non-*de micromis*, viable and locatable parties that sent less than 1% of the waste to the Site (adjusted for post-1994 shipments) to be *de minimis*. With the inclusion of batteries to the list, and the 85% reduction for post-February 15, 1994 waste, your company's, or client's, total adjusted share is reduced below 1% and thus your company, or client, is now considered *de minimis*. As such, we are offering your company, or your client a *de minimis* settlement as discussed below.

Attachment 1, hereto, contains the revised *de minimis* settlement offer which is being sent to the other *de minimis* parties. Please review Attachment 1 carefully. Please also review the enclosed Individual Transaction Summary (Attachment 2) which identifies all the shipments included in EPA's database associated with your company or client. Several of you requested and received this report after the October 2005 notice letter was sent. The Transaction Summary Report enclosed herewith includes battery shipments you, or your client, sent to the Site prior to May 11, 1995. If you, or your client, did not send batteries to the Site then the attached Transaction Summary Report is identical to the report you received from EPA in 2005. If you would like to enter into a *de minimis* settlement with EPA as set forth in Attachment 1, you must follow the instructions contained therein. If you have any questions, please call the Mercury Refining Site telephone information line at 866-353-0976 between the hours of 10:00 a.m. and 5:00 p.m., EDT.

Thank you for your cooperation and patience in this matter.

Sincerely yours,



Raymond Basso
Strategic Integration Manager
Emergency and Remedial Response Division

cc: Brian Davidson, NYSDEC
David P. Rosenblatt (Lead PRP Group Counsel), Burns & Levinson LLP

Enclosures:

Attachment 1 - Letter to *De Minimis* Parties with attachments

Attachment 2 - Individual Transaction Summary Report

