



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SITE: BCX Facility
BREAK: 11.1
OTHER: V. 5

August 13, 2004

**NOTICE OF POTENTIAL LIABILITY AND OFFER TO NEGOTIATE
URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED**

Seven Out, LLC
c/o Mr. Ferrell J. Carden
Managing Member
1859 East Adams Street
Jacksonville, FL 32202

Re: Emergency Removal Activities
BCX Tank Site
Jacksonville, Duval County, Florida

Dear Mr. Carden:

This letter notifies Seven Out, LLC of its potential liability, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9607(a), as amended ("CERCLA"), with respect to the BCX Tank Site ("the Site") located in Jacksonville, Duval County, Florida. This letter also notifies Seven Out, LLC of forthcoming removal activities and requests that Seven Out, LLC consider participating in such activities.

Under 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 threat of release exists at the Site. 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.

Explanation of Potential Liability

PRPs under CERCLA include: current and former owners and operators of a site as well as persons who arranged for disposal or treatment of hazardous substances sent to the Site, or persons who accepted hazardous substances for transport to a site. Under CERCLA, PRPs may be obligated to implement response actions to protect health, welfare or the environment. PRPs may also be liable for the costs incurred by the United States in responding to any release or threatened release at a site. In addition, PRPs may be required to pay for damages for injury to



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natural resources or for their destruction or loss, together with the cost of assessing such damages. Where the site conditions present an imminent and substantial endangerment to human health, welfare or the environment, EPA may also issue an administrative order under CERCLA to require PRPs to commence cleanup activities.

Based on information presently available, EPA believes that Seven Out, LLC may be liable under Section 107(a) of CERCLA for cleanup of the Site and for costs EPA has incurred or will incur in cleaning up the Site, because Seven Out, LLC is the current owner of the Site.

Emergency Removal Activities

Based on the site evaluation conducted on June 21, 2004, EPA's On-Scene Coordinator has identified several areas of concern that need immediate attention to reduce the risks posed to human health and/or the environment by releases or threatened releases from the Site. EPA is planning to address the following concerns itself, pursuant to Section 104 of CERCLA, unless you agree to undertake such activities.

1. The secondary containment wall may be leaking and is of questionable integrity. It requires emergency stabilization.
2. The wastes stored in the tanks at the Site and the waste accumulating within the secondary containment wall need to be sampled to determine the specific nature of their contents.
3. The extent of sludge and soil contamination needs to be determined.
4. Hazardous substances need to be bulked and disposed of off-site in compliance with Federal regulations, including the CERCLA off-site rule.
5. Some tanks and other materials need to be moved or removed to allow for the safe clean-up of the Site.

Responding to this Letter/ Ability to Pay

You are encouraged to contact EPA if Seven Out, LLC is interested in participating in further negotiations to perform or finance the above-described response actions at this Site. If you choose to enter into negotiations with EPA regarding your performance of the above-described response action, kindly notify EPA within five (5) days of your receipt of this letter by contacting the attorney assigned to this matter, Stacey Haire, at (404) 562-9676 or at the address listed below. Ms. Haire will then send you a draft Administrative Order on Consent in order to initiate a period of formal negotiations.

EPA is aware that your financial ability to conduct or contribute toward the payment of response costs at this Site may be substantially limited. You may elect to make an inability to pay claim, by notifying Ms. Haire within the same five (5) day period. Ms. Haire will then send you a package of information about the potential for a settlement based upon your inability to pay, and a form to fill out with information about your finances. You will also be asked to submit financial records including business federal income tax returns. Also, please note that, because EPA has a potential claim against you, you must include EPA as a creditor if you file for bankruptcy.

If EPA does not receive a timely notice of either your intent to participate in negotiations to perform the response activities or your intent to make an inability to pay claim, EPA will assume that you do not wish to perform or otherwise participate in the response actions at the Site, and that you decline any involvement in funding the response activities.

Your response to this notice letter should be sent to:

Stacey A. Haire, Assistant Regional Counsel
U.S. EPA, Region 4, OEA
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Information to Assist You

EPA will establish an Administrative Record that contains documents that serve as the basis for EPA's selection of a cleanup action for the Site. The Administrative Record will be made available at a location near the Site. The Administrative Record will also be available for inspection at the Superfund Records Center, EPA Region 4, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia.

Decision Not to Use Special Notice

Under CERCLA Section 122(e), EPA has the discretionary authority to invoke special notice procedures to formally negotiate the terms of an agreement between EPA and PRPs to conduct or finance response activities. Use of these special notice procedures triggers a moratorium on certain EPA activities at the Site while formal negotiations between EPA and the PRP or PRPs are conducted. It is EPA's policy not to use the special notice procedures for a removal action unless there is a six month planning lead time after the decision to respond and prior to the initiation of the action. Since the planning lead time prior to the initiation of this removal action is less than six months, special notice procedures will not be used. Nonetheless, EPA is willing to discuss settlement opportunities without invoking a moratorium, but will initiate the response action as planned if such discussions do not lead to settlement expeditiously.

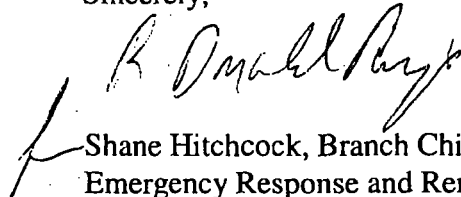
Resources and Information for Small Businesses

As you may be aware, on January 11, 2002, President 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/sblbra.htm> and review EPA guidances regarding these exemptions at <http://www.epa.gov/compliance/resources/policies/cleanup/superfund>.

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 www.epa.gov. In addition, the EPA Small Business Ombudsman may be contacted at 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 discussing them with your attorney. If you have any questions regarding this letter, please contact Stacey Haire, (404) 562-9676. Thank you for your prompt attention to this matter.

Sincerely,



Shane Hitchcock, Branch Chief
Emergency Response and Removal Branch
Waste Management Division

Enclosure

cc: William L. Finger, Attorney for Seven Out, LLC
/ Terry Stillman, On-Scene Coordinator
Johnny Morgan, Enforcement Project Manager