

**NOTICE OF INTENT TO PERFORM
A NATURAL RESOURCE DAMAGE ASSESSMENT**

August 2, 2021

In re: South Charleston Facility and Kanawha River Assessment Site

POTENTIALLY RESPONSIBLE PARTY:

Union Carbide Corporation

- Pursuant to State and Federal laws, the West Virginia Department of Environmental Protection (WVDEP), the West Virginia Division of Natural Resources (WVDNR) and the U.S. Department of the Interior (DOI) (collectively, the Trustees) have authority to perform a natural resource damage assessment (NRDA) related to the releases of hazardous substances and oil at and from the South Charleston Facility, South Charleston, West Virginia, owned and operated by Union Carbide Corporation (Facility). Investigations in the Kanawha River near the Facility have found releases of hazardous substances, including, but not limited to lead, mercury, naphthalene, benzene, dichlorobenzenes, non-aqueous phase liquids (NAPL), and polyaromatic hydrocarbons (PAHs) into the Kanawha River (collectively, the “Site”). Federal and State Trustees have authority to conduct a NRDA pursuant to Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. § 9607(f); Subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R §§ 300.600, 300.605; the CERCLA Natural Resource Damage Assessment and Restoration (NRDAR) regulations, 43 C.F.R. Part 11¹, and West Virginia Code 25: Water Pollution Control Act Natural Resources Game Fish and Aquatic Life Fund §22-11-25. This document serves to notify Union Carbide Corporation of the Trustees’ intent to perform an assessment of damages for injuries to natural resources and their services resulting from the release(s) of hazardous substances and other chemicals at and from the South Charleston Facility into Kanawha River.

The Trustees have taken the initial step of conducting a Preassessment Screen (PAS) for the Site in accordance with Subpart B – Preassessment Phase, Sections 11.20 – 11.25 of the CERCLA NRDAR regulations. The CERCLA NRDAR regulations provide a method for assessing damages for natural resource injuries resulting from the release of hazardous substances under CERCLA, 42 U.S.C. §§ 9601-9628. Adherence to the methods set forth in the CERCLA NRDAR regulations is not mandatory and does not preclude the Trustees from using alternative assessment methods or arriving at a negotiated settlement with the potentially responsible party.

¹ For natural resource damages resulting from a discharge or release of a mixture of oil and hazardous substances, trustees must use 43 C.F.R. Part 11. 15 C.F.R. § 990.20(c).

A copy of the South Charleston Facility- Kanawha River Preassessment Screen is enclosed for your convenience (Attachment). The PAS contains, to the extent known, a description of the Site; the hazardous substances and other chemicals of concern to the natural resources and associated services under the jurisdiction of the Trustees; and the natural resources and their services potentially injured. The PAS is a public document. The public will be encouraged to provide input into the assessment process, including reviewing and commenting on the development of any assessment plan(s), as well as any restoration actions developed pursuant to the CERCLA NRDAR regulations.

Based on the PAS, the Trustees have made a preliminary determination that the specified criteria in Section 11.23(e) of the CERCLA NRDAR regulations, have been met:

- A release of a hazardous substance has occurred;
- Natural resources for which the WVDEP, WVDNR and DOI may assert trustee authority under CERCLA have been, or likely have been, adversely affected by the release;
- The quantity and concentration of the released hazardous substance is sufficient to potentially cause injury to those natural resources;
- Data sufficient to pursue an assessment are readily available, or likely to be obtained at a reasonable cost;
- Corrective actions carried out to date did not sufficiently remedy the injury to natural resources without further action.

Based upon an evaluation of these five (5) criteria, the Trustees have determined that a NRDA is warranted at the Site in accordance with 43 C.F.R. Part 11, Subparts C and E. The NRDA will assess damages for injuries to natural resources and their services caused by the releases of hazardous substances including but not limited to lead, mercury, naphthalene, benzene, dichlorobenzenes, NAPL and PAHs.

A preliminary determination has also been made that your company is potentially liable for any natural resource damages as a result of the releases of hazardous substances and other chemicals at and from the Facility. Additional information on the background of the Site and the basis of the preliminary determination may be found in the PAS.