



Ohio

Environmental
Protection Agency

September 26, 2011

Dr. Rainer F. Domalski
President and CEO
Rutgers Organics Corporation
201 Struble Road
State College, Pennsylvania 16801

Subject: Notification of, and Invitation to Participate in, the Natural Resource Damage Assessment (NRDA) of the Nease Chemical Site, Columbiana and Mahoning Counties, Ohio

Dear Dr. Domalski:

This notice is sent on behalf of the U.S. Department of the Interior (DOI) and the State of Ohio (collectively the Trustees) to notify your company of, and invite its participation in, the assessment of injuries to natural resources resulting from the release of hazardous substances from the former Nease facility into the underlying aquifers, Feeder Creek, Middle Fork Little Beaver Creek and the supporting ecosystems (Nease Chemical Site or Site). This notice and invitation is issued pursuant to 43 C.F.R. §11.32(a)(2)(iii)(A).

The Trustees conducted a Preassessment Screen (PAS) for the Site in accordance with Subpart B – Preassessment Phase, 43 C.F.R. §§11.20 – 11.25. The PAS is a public document and is available to the public for its information.

The Trustees believe that hazardous substances released at and from the Nease Chemical Site have caused, and continue to cause, injuries to, destruction of, or loss of natural resources. Based upon the determination in the PAS, the Trustees have determined that it is appropriate to perform an NRDA for the Site, and hereby provide you with notice of their intent to do so.

The goal of the assessment process is to efficiently and effectively quantify injuries and restore injured natural resources and their services to baseline conditions, and compensate the public for the losses as well as the costs of assessment. The public is encouraged to provide input into the assessment process, including reviewing and commenting on the development of the Assessment Plan, as well as any restoration proposals developed pursuant to the natural resource damage assessment regulations.

Ohio Environmental Protection Agency
DIVISION OF ENVIRONMENTAL RESPONSE AND REVITALIZATION
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, OH 43216
(614) 644-2924 / FAX (614) 644-3146

The Trustees made a preliminary determination that the Rutgers Organics Corporation (ROC) is potentially liable for natural resource damages at the Nease Chemical Site. Accordingly, the Trustees invite ROC to participate in the development of the type and scope of the assessment and in the performance of the assessment, including the funding of all phases of the damage assessment.

Based on the PAS, the Trustees have determined the initial scope of the assessment will include Feeder Creek, ground water including but not limited to the Overburden Aquifer and the Middle Kittanning Sandstone Aquifer and Middle Fork Little Beaver Creek from approximately river mile 36.7 to river mile 1.9.

The Trustees have determined that hazardous substances have been released at the Nease Chemical NRD Site including, but not limited to: acetone, benzene, carbon tetrachloride, chlorobenzene, chloromethane, chloroform, 1,2-dichlorobenzene, 1,1-dichloroethene, 1,2-dichloroethene, 1,2-dichloroethane, ethylbenzene, hexachlorobenzene, tetrachloroethene, trichloroethylene, 1,1,2,2-tetrachloroethane, 1,1,2-trichloroethane, toluene, xylenes (mixed), benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, bis(2-ethylhexyl)phthalate, dibenz(a,h)anthracene, fluoranthene, fluorene, hexachlorobutadiene, hexachloroethane, indeno(1,2,3-cd)pyrene, naphthalene, n-nitrosodiphenylamine, pyrene, mirex, photomirex, kepone, beta-HCH, dieldrin, and endrin.

Natural resources injured or potentially injured include, but are not limited to: (1) ground water; (2) fish, (3) wildlife, and supporting ecosystems; (4) migratory birds and supporting ecosystems; (5) threatened or endangered species; (6) surface water and sediments; and (7) geological resources.

The Trustees for these natural resources are the U.S. Department of the Interior, acting through its representative, the U.S. Fish and Wildlife Service (FWS) and the State of Ohio, acting through its designee, the Director of the Ohio Environmental Protection Agency (Ohio EPA). The bases for these trusteeships, in general, are under §107(f) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9607(f)(1), as amended; the National Oil and Hazardous Substances Pollution Contingency Plan, as amended, 40 C.F.R. Part 300; the DOI NRD regulations, 43 C.F.R. Part 11; and other applicable federal and state regulations and directives, which serve to designate federal and state natural resource trustees, and which authorize the recovery of natural resource damages. FWS is a trustee for natural resources and their supporting ecosystems, managed by, controlled by or appertaining to DOI such as birds under the Migratory Bird Treaty Act and threatened or endangered species and their habitats. The State of Ohio has trusteeship over natural resources, including their supporting ecosystems, within the boundary of the State or managed by, controlled by or appertaining to the State.

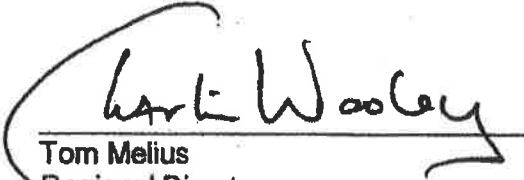
We recommend that ROC evaluate its potential responsibility and determine whether it will participate in the assessment process. Within thirty (30) calendar days of your

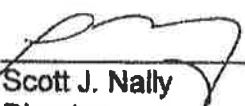
receipt of this notice, please provide a written response indicating whether you intend to participate in the assessment. Please send your response to the following individuals representing the Trustees:

Kimberly Gilmore
Staff Attorney
United States Department of the
Interior
Office of the Solicitor
Three Parkway Center, Rm 385
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Ann Fischbein
Staff Attorney
Ohio EPA, Legal Section
P.O. Box 1049
Columbus, Ohio 43216-1049
e-mail address:
ann.fischbein@epa.ohio.gov

If you have questions regarding this notice, please contact Ms. Gilmore at 412-937-4017 or Ms. Fischbein at 614-728-1833.


Tom Melius
Regional Director
USFWS, Region 3


Scott J. Nally
Director
Ohio EPA

for
Attachment

cc: Kimberly Gilmore, DOI
Dave Devault, FWS
Kevin Tloczynski, FWS
Mary Knapp, FWS

Tim Kern, Ohio AGO
Ann Fischbein, Ohio EPA
Brian Tucker, Ohio EPA
Kurtis Herlocher, Ohio EPA
Sheila Abraham, Ohio EPA