



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

NOTICE OF POTENTIAL LIABILITY
TIME CRITICAL REMOVAL ACTION
URGENT LEGAL MATTER: PROMPT REPLY REQUIRED
VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED and
E-MAIL, psaffrin@ericcoke.com

Erie Coke Corporation
Paul A. Saffrin, CEO
P. O. Box 610
Getzville, NY 14068

Re: Erie Coke Corporation Site, Erie, Erie County, Pennsylvania

Dear Mr. Saffrin:

This letter notifies you that Erie Coke Corporation ("ECC") may incur, or may have incurred, liability under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9607(a), with respect to the Erie Coke Corporation Site ("Site") located at or near 925 E. Bay Drive, Erie, Pennsylvania. This letter also notifies you of potential response activities at the Site, which ECC may be asked to perform or pay for at a later date if the United States Environmental Protection Agency ("EPA") performs them.

Under CERCLA, commonly known as the Federal "Superfund" law, 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 or 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. Based on information presently available to EPA, EPA has determined that ECC may be responsible under CERCLA for cleanup of the Site or costs EPA has incurred in cleaning up the Site.

ECC's response to this Notice of Potential Liability is due within **five (5) business days** of your receipt of this letter.

EXPLANATION OF POTENTIAL LIABILITY

Under CERCLA, specifically Sections 106(a) and 107(a), potentially responsible parties ("PRPs") may be required to perform cleanup actions to protect the public health, welfare, or the environment. PRPs may also be responsible for costs incurred by EPA in cleaning up the Site,

unless a PRP can show divisibility or any of the other statutory defenses. PRPs include current and former owners and operators of a site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the site, and persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

Based on the information collected, EPA believes that ECC may be liable under Section 107(a)(1) of CERCLA with respect to the Site, as the current owner of the Site and Section 107(a)(2) of CERCLA, as the owner of the Site at the time hazardous substances were disposed of there. EPA believes that ECC has owned the following Erie County parcels which comprise the Site since May 11, 1987, except as noted below (See Attachments A, B, and C).

- 14010025011300,
- 14010025011700,
- 14010025011800,
- 14010034010200,
- 14010034010400,
- 14010034010700,
- 14010034010800,
- 14010034011000,
- 14010034011100,
- 14010034020100,
- 14010034020300 (1/21/2006),
- 14010034020500,
- 14010048010500, and
- 14010048010700.

SITE RESPONSE ACTIVITIES

To date, EPA has taken response actions at the Site under the authority of the Superfund Program. Specifically, in late July 2020, EPA conducted a Removal Assessment at the Site.

Based on the threat posed by conditions at the Site, and the selection of a time-critical removal action, EPA is conducting actions to mitigate the release or threat of release of hazardous substances from the Site and to protect public health, welfare, and/or the environment. EPA's response action may include, but is not limited to, activities such as:

- Mobilizing and demobilizing personnel and equipment to and from the Site to implement response actions;
- Providing security to limit access to the Site and prevent trespassers from contacting hazardous substances, pollutants and contaminants; such actions may include security guards, locks, chains, and other related measures;
- Removing, stabilizing, segregating, and arranging proper temporary storage of hazardous substances, pollutants, or contaminants in the laboratory, tanks, piping, drums and other containers to prevent releases from the Site;

- Sampling, overpacking, transferring, consolidation, or otherwise preparing the hazardous substances, pollutants and contaminants identified for removal and off-Site disposal; and,
- Arranging for and conducting transportation for off-site disposal of hazardous substances, pollutants and contaminants prepared for removal.

EPA may expend additional funds for response activities at the Site under the authority of CERCLA and other laws.

DECISION NOT TO USE SPECIAL NOTICE

Under CERCLA Section 122(e), 42 U.S.C. § 9622(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.

In this case, EPA has decided not to invoke the Section 122(e) special notice procedures because use of such procedures is not practicable or in the public interest, nor would use of such procedures facilitate an agreement or expedite remedial action. It is EPA's policy not to use the special notice procedures for removals 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 time-critical response action is less than six months, special notice procedures have not been used. Nonetheless, EPA is willing to discuss settlement opportunities without invoking a moratorium but will continue the actions necessary to mitigate the threat posed by hazardous substances at the Site.

PRP RESPONSE AND EPA CONTACT

You are encouraged to contact EPA in writing **within five (5) business days of your receipt of this letter** to express ECC's willingness or unwillingness to participate in possible future negotiations concerning this Site.

You should not interpret this letter as advising or directing you to restrict or to discontinue activities to provide Site security and use due care with respect to the hazardous substances at the Site.

If possible, your response should be sent via e-mail to:

Christopher Guzzetti, On-Scene Coordinator, Guzzetti.Christopher@epa.gov
Subject Line: Erie Coke Corporation

A hard copy of your response to this letter should also be addressed to:

Christopher Guzzetti, On-Scene Coordinator
U.S. Environmental Protection Agency, Region III
1650 Arch Street (3SD32)
Philadelphia, PA 19103

The following information may be useful in your consideration of this matter.

INFORMATION TO ASSIST POTENTIALLY RESPONSIBLE PARTIES

Administrative Record

Pursuant to CERCLA Section 113(k), 42 U.S.C. § 9613(k), EPA establishes an administrative record that contains documents which form the basis for EPA's decision on the selection of each response action for a site. As appropriate, a copy of the record for each response action selected for the Site will be available on the internet at www.epa.gov/arroweb and will be available in hardcopy at specific locations.

Future Financial Review

EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a site may be substantially limited. If you believe, and can document, that ECC falls within that category, please contact Carlyn Winter Prisk, at (215) 814-2625 for information on "Ability to Pay Settlements." In response, you will receive a package of information about the potential for such settlements and a form to fill out with information about your finances, and you will be asked to submit financial records including Federal income tax returns. If EPA concludes that ECC has a legitimate inability to pay the full amount of EPA's costs, EPA may offer a schedule for payment over time or a reduction in the total amount demanded.

Some or all of the costs associated with this notice may be covered by current or past insurance policies issued to ECC or some other party. Most insurance policies will require that ECC timely notify the carrier(s) of a claim against it. To evaluate whether ECC should notify the insurance carrier(s) of this demand, you may wish to review current and past policies, beginning with the date of ECC's first involvement with the Site, up to the present. Coverage depends on many factors, such as the language of the particular policy and state law.

Also, please note that, because EPA has a potential claim against ECC, you must include EPA as a creditor if ECC files for bankruptcy.

Please give these matters your immediate attention and consideration. If you have any questions regarding the foregoing, please contact Ms. Prisk at (215) 814-2625, or you may have your attorney contact Joan A. Johnson at (215) 814-2612. Thank you for your prompt attention to this matter.

Sincerely,

CLAUDETTE

REED

Digitally signed by CLAUDETTE
REED
Date: 2020.08.10 10:51:27 -04'00'

Claudette Reed, Chief
Program Support and Cost Recovery Branch
Superfund and Emergency Management Division

Attachment A-C: Deeds

cc: Christopher Guzzetti (3SD32)
Joan A. Johnson, Esq. (3RC11)
Carllyn Winter Prisk (3SD41)
PADEP
Sandra Allen (3SD42)
Paul A. Saffin